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**JOINT LEGISLATIVE
TRANSPORTATION OVERSIGHT
COMMITTEE**



**REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA**

1994 SESSION

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TABLE OF CONTENTS

	PAGE
Letter of Transmittal	i
Committee Membership	ii
Preface	1
Committee Proceedings	2
Committee Recommendations and Legislative Proposals	
1. AN ACT TO CONFORM THE VEHICLE EMISSIONS INSPECTION PROGRAM TO THE REQUIREMENTS OF FEDERAL LAW AND TO MAKE TECHNICAL CHANGES IN THE VEHICLE INSPECTION LAWS	7
2. AN ACT TO MAKE TECHNICAL, CONFORMING AND ADMINISTRATIVE CHANGES TO THE MOTOR VEHICLE LAWS AND OTHER LAWS CONCERNING THE DEPARTMENT OF TRANSPORTATION	41
3. AN ACT TO ELIMINATE THE REQUIREMENT OF PROOF OF FINANCIAL RESPONSIBILITY UPON RENEWAL OF A DRIVERS LICENSE	62
4. AN ACT TO EXTEND THE EXPIRATION OF THE REQUIREMENT THAT JUST COMPENSATION BE PAID FOR THE REMOVAL BY LOCAL AUTHORITIES OF BILLBOARDS ON INTERSTATE AND FEDERAL-AID PRIMARY HIGHWAYS, AS REQUIRED BY FEDERAL LAW	67
5. AN ACT TO PROVIDE FOR UNIFORM DRIVER LICENSE AND VEHICLE REGISTRATION INFORMATION.	69
6. AN ACT TO COMPLY WITH FEDERAL LAW BY REVISING THE BINGO STAMP METHOD OF ENSURING THAT FOR-HIRE VEHICLES OPERATED IN THIS STATE IN INTERSTATE COMMERCE ARE INSURED AND TO MAKE TECHNICAL CHANGES TO THE MOTOR CARRIER LAWS	84
7. AN ACT CLARIFYING THAT A MOTOR VEHICLE OPERATING LEASE THAT CONTAINS A TERMINAL RENTAL ADJUSTMENT CLAUSE (TRAC) IS NOT A SALE AND DOES NOT CREATE A SECURITY INTEREST IN THE LEASED PROPERTY	96

Committee Recommendations and Legislative Proposals (Continued)

8. AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO SELL SOUVENIRS ON FERRIES AND AT FERRY FACILITIES 99
9. AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERFORM DREDGING SERVICES FOR UNITS OF LOCAL GOVERNMENT . . . 101
10. AN ACT TO MAKE PERMANENT THE EXEMPTION FOR REAL ESTATE ACQUIRED BY THE DEPARTMENT OF TRANSPORTATION FROM THE REQUIREMENT THAT IT BE APPRAISED BY A LICENSED OR CERTIFIED APPRAISER WHEN THE ESTIMATED VALUE OF THE REAL ESTATE IS LESS THAN TEN THOUSAND DOLLARS 102
11. AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PURCHASE LAND FOR ENVIRONMENTAL MITIGATION OR ENHANCEMENT . 103
12. AN ACT TO LIMIT PENALTIES FOR MULTIPLE VIOLATIONS OF SINGLE AXLE, TANDEM AXLE, AND AXLE GROUP WEIGHT LIMITS 104
13. AN ACT TO ALLOW A TEN PERCENT WEIGHT TOLERANCE FOR VEHICLES TRANSPORTING UNPROCESSED FOREST PRODUCTS UPON PAYMENT OF A FEE 105
14. CONFIDENTIALITY OF DMV RECORDS - CHANGE IN POLICY 106
15. PROPOSED RECOMMENDATIONS FOR INMATE LABOR PROGRAM 108

Subcommittee Reports

1. Inmate Labor 112
2. Certification of Motor Vehicle Liability Insurance Forms (FS-1s) 116
3. Bridge Formula and Penalty Stacking 119

Summary of Mandated Reports 122

APPENDIX

- Revenue Update on Highway Fund 132
- Status Report on Highway Trust Fund Projects 135
- Future Study Topics 139



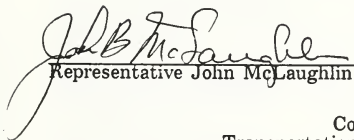
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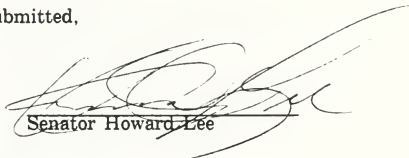
May 24, 1994

TO THE MEMBERS OF THE 1993 GENERAL ASSEMBLY
(SECOND SESSION 1994):

The Joint Legislative Transportation Oversight Committee submits its annual report to you for your consideration. The report was prepared by the Committee pursuant to G.S. 120-70.51(a).

Respectfully submitted,


Representative John McLaughlin


Senator Howard Lee

Co-Chairmen
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PREFACE

The Joint Legislative Transportation Oversight Committee was established in 1989 by Article 12E of Chapter 120 of the General Statutes. The Committee was formed in conjunction with the creation of the Highway Trust Fund. The Committee consists of 8 members of the Senate appointed by the President Pro Tempore of the Senate and 8 members of the House of Representatives appointed by the Speaker of the House of Representatives. Members serve two-year terms.

The Committee's oversight powers are broad as quoted from G.S. 120-70.51(a) below.

- o Review reports prepared by the Department of Transportation or any other agency of State government related, in any manner, to transportation, when those reports are required by law.
- o Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation.
- o Determine whether funds related, in any manner, to transportation are being spent in accordance with law.
- o Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation may be used, including revisions needed to meet any statutory timetable or program.
- o Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the funding or operation of programs related, in any manner, to transportation.

COMMITTEE PROCEEDINGS

The Joint Legislative Transportation Oversight Committee was very active from September, 1993, to May, 1994 with seven meetings (including a public hearing in Asheville) and numerous subcommittee meetings. Several Oversight Committee members also participated in the Board of Transportation meetings in Raleigh.

The Transportation Oversight Committee tackled a variety of topics in the interim. Many of the issues discussed by the Committee were generated by reports submitted by DOT upon the request of the 1993 General Assembly (see section on mandated reports). Some of the topics were follow-up reports on recommendations of the Government Performance Audit Committee (GPAC). Committee members also added subjects to the monthly agendas. Three subcommittees were formed to delve into the following areas: bridge formula exceptions, inmate labor, and notification to the Division of Motor Vehicles (DMV) of insurance cancellation and renewal.

SEPTEMBER 8, 1993

This organizational meeting laid the groundwork for future agendas. The Committee reviewed the transportation-related legislation of the 1993 Session, received a revenue and expenditure update on the Highway Fund and the Highway Trust Fund, and were briefed on the 1994 to 2000 Transportation Improvement Program (TIP). The Committee received a list of mandated reports and heard DOT present the first three reports on the topics of construction and preconstruction staffing and on the closing of part-time drivers license offices. The Committee also received an update on the MB/WB goals program.

OCTOBER 6, 1993

The Committee's second meeting was held in Asheville in conjunction with the Board of Transportation. A public hearing was held on whether the current outdoor advertising law should be changed. Legislative staff presented the Committee with an overview of the State and federal billboard laws, regulations, and fees. Invited speakers included Scenic North Carolina, N.C. Outdoor Advertising Association, Sierra Club, Citizens for Property Rights, and the N.C. Association of County Commissioners. The Committee report does not include a recommendation for changing the outdoor advertising law. The Committee plans to revisit the issue in the fall of 1994.

COMMITTEE PROCEEDINGS (Continued)

NOVEMBER 8, 1993

The Commissioner of DMV briefed the Committee on the Department's proposal for rest area security. DMV Enforcement assigned existing personnel to patrol 58 rest areas and welcome centers in the State. The Board of Transportation approved the use of highway maintenance funds to purchase bullet proof vests, walkie talkies, and flashlights for all Enforcement personnel. DMV Commissioner Killens asked the Oversight Committee to consider an additional appropriation of \$3.3 million for additional vehicles, additional equipment, overtime pay, and a K-9 unit. The Department also requested broader arrest powers for DMV officers. These requests were proposed for debate in the Special Session on Crime, but were not considered in that Session. The Committee has not concluded its review of these requests and, therefore, has not determined whether to recommend the requested appropriation.

Other topics in November were a discussion on the naming of highways, an update on Highway Trust Fund projects, and a speech by former DOT Secretary Jim Harrington. The Committee chairs appointed two subcommittees to work on inmate labor matters and on the electronic filing of insurance forms with DMV.

DECEMBER 1, 1993

The main topic of this meeting was Senate Bill 1088, An Act To Change The Diesel Fuel Tax Payment Method. This bill, sponsored by Senator Lee, would transfer a portion of the diesel fuel tax paid at the pump to the quarterly reports filed by truck operators and would assess an additional annual registration tax ranging from \$50 to \$150 on the registration of diesel-fueled cars and light trucks. Truck stop operators told the Committee that the bill is needed to make North Carolina truck stops competitive with those in surrounding states. The Departments of Revenue and Transportation raised concerns about the revenue impact of the bill and the increased administrative burden the bill would impose. Carolina Motor Club expressed concerns with the bill in its current form. Action on the bill was postponed to a future meeting.

COMMITTEE PROCEEDINGS (Continued)

JANUARY 5, 1994

The Committee's first meeting of the new year began with a debate on the location of a train maintenance facility in Raleigh to service the Piedmont passenger train.

The Joint Legislative Commission on Governmental Operations asked the Committee to review the site selected for maintenance of the second Raleigh to Charlotte train operated by Amtrak. The Committee had no objections to the Department's plans to purchase the land and existing buildings.

The Committee devoted time to several DMV issues at this meeting. The Committee approved a proposed bill to include social security number on the application form for a drivers license, a special identification card, or a vehicle registration. The Committee also approved a bill to implement single state insurance registration for interstate motor carriers. The Committee debated the confidentiality of driver records and vehicle registration and asked the Department to recommend a solution at the next meeting. The Committee also discussed the requirement to show an insurance form to get a drivers license.

FEBRUARY 2, 1994

The Committee continued its discussions on the confidentiality of drivers' records and agreed to support some internal changes made by DMV. An update was given the Committee on permanent hourly workers in the Division of Highways that were converted to permanent employees as of January 1, 1994. A proposed Corolla Toll Bridge Authority was presented to the Committee, but no action was taken. Jim Ritchie of the Triangle Transit Authority summarized the Authority's annual report for the Committee.

APRIL 6, 1994

The Committee endorsed an outline of a bill to change the emission inspection program in the State. Staff was asked to draft a bill for Committee approval at the May meeting.

COMMITTEE PROCEEDINGS (Continued)

The Committee approved the following bills for the Short Session: (1) DOT/DMV technical changes; (2) terminal rental adjustment clause (TRAC) leases; (3) a bill to limit the number of persons who would have to show proof of insurance to get a drivers license; and, (4) a billboard law extension. A report on Division of Highways' reorganization and on diversion of Highway Fund money to the Highway Trust Fund were presented to the Committee.

RECOMMENDATIONS

&

LEGISLATIVE PROPOSALS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

D

Proposal 1 (93-LJZ-35V5)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Emissions Inspection Changes. (Public)

Sponsors: Representatives McLaughlin, Bowen, Bowie, Grady, R. Hunter, McAllister, and Robinson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE VEHICLE EMISSIONS INSPECTION PROGRAM TO THE REQUIREMENTS OF FEDERAL LAW AND TO MAKE TECHNICAL CHANGES IN THE VEHICLE INSPECTION LAWS.

The General Assembly of North Carolina enacts:

Section. 1. Part 2 of Article 3A of Chapter 20 of the General Statutes reads as rewritten:

~~"Part 2. Equipment Inspection of Motor Vehicles.~~

~~Safety and Emissions Inspections of Certain Vehicles.~~

~~"§ 20-183.2. Equipment inspection required; inspection certificate; one-way permit to move vehicle to inspection station. Description of vehicles subject to safety or emissions inspection; definitions.~~

~~(a) Safety. -- A motor vehicle is subject to a safety inspection in accordance with this Part if it meets all of the following requirements:~~

~~(1) It is subject to registration with the Division under Article 3 of this Chapter.~~

~~(2) It is not subject to inspection under 49 C.F.R. Part 396, the federal Motor Carrier Safety Regulations.~~

~~(3) It is not a trailer whose gross weight is less than 4,000 pounds or a house trailer.~~

(b) Emissions. -- A motor vehicle is subject to an emissions inspection in accordance with this Part if it meets all of the following requirements:

- (1) It is subject to registration with the Division under Article 3 of this Chapter.
- (2) It is not a trailer whose gross weight is less than 4,000 pounds, a house trailer, or a motorcycle.
- (3) It is a 1975 or later model.
- (4) It is powered or designed so that it could be powered by gasoline.
- (5) It meets any of the following descriptions:
 - a. It is required to be registered in an emissions county.
 - b. It is part of a fleet that is operated primarily in an emissions county.
 - c. It is offered for rent in an emissions county.
 - d. It is offered for sale by a dealer in an emissions county.
 - e. It is operated on a federal installation located in an emissions county and it is not a tactical military vehicle. Vehicles operated on a federal installation include those that are owned or leased by employees of the installation and are used to commute to the installation and those owned or operated by the federal agency that conducts business at the installation.
 - f. It is otherwise required by 40 C.F.R. Part 51 to be subject to an emissions inspection.

(c) Definitions. -- The following definitions apply in this Part:

- (1) Emissions county. -- A county in which the State either is required by federal law to conduct emissions testing or has agreed in its State Implementation Plan submitted to the federal Environmental Protection Agency to conduct emissions testing. The State Environmental Management Commission establishes the emissions counties pursuant to rules adopted under G.S. 143-215.107(a)(6).
- (2) Federal installation. -- An installation that is owned by, leased to, or otherwise regularly used as the place of business of a federal agency.

~~(a) Every motor vehicle, trailer, semitrailer, and pole trailer not including trailers of a gross weight of less than 4,000 pounds and house trailers, registered or required to be registered in North Carolina when operated on the streets and highways of this State must display a current approved State or federal inspection certificate as required by the Federal Motor Carrier Safety Regulations at such place on the vehicle as may be designated by the Commissioner, indicating that it has been inspected in accordance with this Part. Gasoline-powered vehicles over 26,001 pounds shall be subject to emission control device and exhaust emission testing required under G.S. 20-128.2. Such motor vehicle shall thereafter be inspected and display a current inspection certificate as is required by subsection (b) hereof.~~

~~(b) Every inspection certificate issued under this Part shall be valid for not less than 12 months and shall expire at midnight on the last day of the month designated on said inspection certificate. It shall be unlawful to operate any motor vehicle on the highway until there is displayed thereon a current inspection certificate as provided by this Part, indicating that the vehicle has been inspected within the previous 12 months and has been found to comply with the standard for safety equipment prescribed by this Chapter subject to the following provisions:~~

~~(1) Vehicles of a type required to be inspected under subsection (a), which are owned by a resident of this State, that have been outside of North Carolina continuously for a period of 30 days, or more, immediately preceding the expiration of the then current inspection certificate shall within 10 days of reentry to the State be inspected and have an approved certificate attached thereto if vehicle is to continue operation on the streets and highways.~~

~~(2) Any vehicle owned or possessed by a dealer, manufacturer or transporter within this State and operated over the public streets and highways displaying thereon a dealer demonstration, manufacturer or transporter plate must have affixed to the windshield thereof a valid certificate of inspection and approval, except a dealer, manufacturer or transporter or his agent may operate a motor vehicle displaying dealer demonstration, manufacturer or transporter plates from source of purchase to his place of business or~~

to an inspection station, provided it is within 10 days of purchase, foreclosure or repossession. Provided further, that a new car dealer may operate a new motor vehicle prior to first sale for customer demonstration purposes only without affixing thereto an inspection certificate as required by this section if such dealer causes an inspection of the equipment enumerated in G.S. 20-183.3 to be made and affixes on the window of the vehicle adjacent to the manufacturer's price list a certificate as near as practical in form and content as follows:

Dealer.....	
Dealer license number.....	
Vehicle make.....Year model.....	
Vehicle identification number.....	
Equipment Item	Check square when inspected and approved
Brakes	<input type="checkbox"/>
Lights	<input type="checkbox"/>
Horn	<input type="checkbox"/>
Steering Mechanism	<input type="checkbox"/>
Windshield Wiper	<input type="checkbox"/>
Directional Signals	<input type="checkbox"/>
Tires	<input type="checkbox"/>
Rear View Mirror	<input type="checkbox"/>
Exhaust System	<input type="checkbox"/>

I certify that the above items of equipment have been inspected and found to be in good working order.

.....
Dealer or Agent

- (3) Vehicles acquired by residents of this State from dealers or owners located outside of the State must, upon entry to this State, be inspected and approved, certificate attached, within 10 days after the vehicle becomes subject to registration.
- (4) Vehicles acquired by residents within this State, not displaying current North Carolina inspection certificates, must be inspected and have approved inspection certificate attached within 10 days from date registration plate issued or if registration

- 1 ~~plate is to be transferred, within 10 days of the~~
2 ~~date of purchase.~~
- 3 (5) ~~Owners of motor vehicles moving their residence to~~
4 ~~North Carolina from other states must within 10~~
5 ~~days from the date the vehicles are subject to~~
6 ~~registration have same inspected and have an~~
7 ~~approved certificate attached thereto.~~
- 8 (6) ~~The Commissioner of Motor Vehicles or his duly~~
9 ~~authorized agent is empowered to grant special~~
10 ~~written one-way permits to operate motor vehicles~~
11 ~~without current inspection certificates solely for~~
12 ~~the purpose of moving such vehicles to an~~
13 ~~authorized inspection station to obtain the~~
14 ~~inspection required under this Part.~~
- 15 (7) ~~Vehicles which are base plated in North Carolina~~
16 ~~under the International Registration Plan but which~~
17 ~~are stationed in another jurisdiction shall be~~
18 ~~permitted to operate in North Carolina on their~~
19 ~~initial trip into North Carolina without displaying~~
20 ~~a valid inspection certificate.~~

21 (c) ~~On and after February 16, 1966, all motor vehicle dealers~~
22 ~~in North Carolina shall, prior to retail sale of any new or used~~
23 ~~motor vehicle, have such motor vehicle inspected by an approved~~
24 ~~inspection station as required by this Part. Provided, however,~~
25 ~~a purchaser of a motor vehicle, who is licensed as a~~
26 ~~self-inspector, may conduct the required inspection, after~~
27 ~~entering into a written agreement with the dealer to follow such~~
28 ~~a procedure. A copy of such dealer-purchaser agreement must be~~
29 ~~filed with the Division of Motor Vehicles. Provided further,~~
30 ~~that any new and unregistered vehicle sold to a nonresident (as~~
31 ~~defined in G.S. 20-6) shall be exempt from the requirements of~~
32 ~~this section if such vehicle is not required to be registered in~~
33 ~~this State. Provided further, that motor vehicles sold by public~~
34 ~~auction dealers meet the inspection requirements of this~~
35 ~~subsection if they have a current North Carolina inspection~~
36 ~~sticker less than 90 days old displayed at the time of sale.~~

37 (d) ~~When a motor vehicle required to be inspected under this~~
38 ~~Part shall, upon inspection, fail to meet the safety requirements~~
39 ~~of this Part, the safety equipment inspection station making such~~
40 ~~inspection, shall issue an authorized receipt for such vehicle~~
41 ~~indicating that it has been inspected and shall enumerate the~~
42 ~~defects found. The owner or operator may have such defects~~
43 ~~corrected at such place as he or she chooses. The vehicle may be~~
44 ~~reinspected at the safety equipment inspection station, first~~

1 making the inspection, without additional charge, or the owner or
2 operator may have same inspected at another safety equipment
3 station upon payment of a new inspection fee.

4 (e) On and after January 1, 1974, each motor vehicle safety
5 inspection certificate shall contain, on the portion readable
6 from the vehicle interior, the following information:

- 7 (1) The date of the current inspection;
- 8 (2) The odometer reading at the time of the current
9 inspection;
- 10 (3) The signature, initials or other identification of
11 the person making the inspection and affixing the
12 certificate to the windshield.

13 "§ 20-183.3. Inspection requirements. Scope of safety inspection
14 and emissions inspection.

15 (a) Safety. -- Before an approval certificate may be issued
16 for a motor vehicle, the vehicle must be inspected by a safety
17 equipment inspection station, and if required by Chapter 20 of
18 the General Statutes of North Carolina, must be found to possess
19 in safe operating condition the following articles and equipment:
20 A safety inspection of a motor vehicle consists of an inspection
21 of the following equipment to determine if the vehicle has the
22 equipment required by Part 9 of Article 3 of this Chapter and if
23 the equipment is in a safe operating condition:

- 24 (1) Brakes, as required by G.S. 20-124.
- 25 (2) Lights, as required by G.S. 20-129 or 20-129.1.
- 26 (3) Horn, as required by G.S. 20-125(a).
- 27 (4) Steering mechanism, as required by G.S. 20-123.1.
- 28 (5) Windshield wiper, Windows and windshield wipers,
29 as required by G.S. 20-127.
- 30 (6) Directional signals, as required by G.S. 20-125.1.
- 31 (7) Tires, as required by G.S. 20-122.1.
- 32 (8) Rearview mirror or mirrors, Mirrors, as required by
33 G.S. 20-126.
- 34 (9) Exhaust system, system, as required by G.S. 20-128.
35 For a vehicle that is subject to an emissions
36 inspection in addition to a safety inspection, a
37 visual inspection of the vehicle's emission-control
38 devices is included in the emissions inspection
39 rather than the safety inspection.

40 No inspection certificate shall be issued by a safety equipment
41 inspection station for a motor vehicle manufactured after model
42 year 1967 unless the vehicle is equipped with such emission
43 control devices to reduce air pollution as were installed at the
44 time of manufacture which are readily visible, provided the

~~1 foregoing requirements shall not apply where such devices have
2 been removed for the purpose of converting the motor vehicle to
3 operate on natural or liquified petroleum gas. Other
4 modifications of emission control devices shall be approved by
5 the Environmental Management Commission before an inspection
6 certification is issued.~~

~~7 The inspection requirements herein provided for shall not
8 exceed the standards provided in the current General Statutes for
9 such equipment.~~

~~10 (b) Emissions. -- When required pursuant to G.S. 20-128.2, and
11 as a condition for approval certificate issuance under subsection
12 (a) of this section, emission control devices and exhaust
13 emissions shall be inspected and shall comply with those
14 standards established pursuant to G.S. 20-128.2 on 1975 and later
15 model gasoline-powered vehicles excluding the current year model
16 and, to this end, the Commissioner of Motor Vehicles is
17 authorized to adopt and enforce such rules and regulations as may
18 be necessary to carry out the intent and purpose of this section.
19 Provided that motorcycles as defined in G.S. 20-4.01(22) and G.S.
20 20-4.01(27)d shall not be subject to the requirements of this
21 subsection. An emissions inspection of a motor vehicle consists
22 of a visual inspection of the vehicle's emission control devices
23 to determine if the devices are present, are properly connected,
24 and are the correct type for the vehicle and an analysis of the
25 exhaust emissions of the vehicle to determine if the exhaust
26 emissions meet the standards for the model year of the vehicle
27 set by the Environmental Management Commission. To pass an
28 emissions inspection a vehicle must pass both the visual
29 inspection and the exhaust emissions analysis. When an emissions
30 inspection is performed on a vehicle, a safety inspection must be
31 performed on the vehicle as well.~~

~~32 (c) Reinspection After Failure. -- The scope of a reinspection
33 of a vehicle that has been repaired after failing an inspection
34 is the same as the original inspection unless the vehicle is
35 presented for reinspection within 24 hours of failing the
36 original inspection. If the vehicle is presented for
37 reinspection within this time limit and the inspection the
38 vehicle failed was a safety inspection, the reinspection is
39 limited to an inspection of the equipment that failed the
40 original inspection. If the vehicle is presented for
41 reinspection within this time limit and the inspection the
42 vehicle failed was an emissions inspection, the reinspection is
43 limited to the portion of the inspection the vehicle failed and~~

1 any other portion of the inspection that would be affected by
2 repairs made to correct the failure.

3 "§ 20-183.4. Licensing of safety equipment inspection stations.
4 License required to perform safety inspection; qualifications for
5 license.

6 (a) License Required. -- A safety inspection must be performed
7 by one of the following methods:

8 (1) At a station that has a safety inspection station
9 license issued by the Division and by a mechanic
10 who is employed by the station and has a safety
11 inspection mechanic license issued by the Division.

12 (2) At a place of business of a person who has a safety
13 self-inspector license issued by the Division and
14 by an individual who has a safety inspection
15 mechanic license issued by the Division.

16 (b) Station Qualifications. -- An applicant for a license as a
17 safety inspection station must meet all of the following
18 requirements:

19 (1) Have a place of business that has adequate
20 facilities, space, and equipment to conduct a
21 safety inspection.

22 (2) Regularly employ at least one mechanic who has a
23 safety inspection mechanic license.

24 (c) Mechanic Qualifications. -- An applicant for a license as a
25 safety inspection mechanic must meet all of the following
26 requirements:

27 (1) Have successfully completed an 8-hour course
28 approved by the Division that teaches students
29 about the safety equipment a motor vehicle is
30 required to have to pass a safety inspection and
31 how to conduct a safety inspection.

32 (2) Have a drivers license.

33 (3) Be of good character and have a reputation for
34 honesty.

35 (d) Self-inspector Qualifications. -- An applicant for a
36 license as a safety self-inspector must meet all of the following
37 requirements:

38 (1) Operate a fleet of at least 10 vehicles that are
39 subject to a safety inspection.

40 (2) Regularly employ or contract with an individual who
41 has a safety inspection mechanic license and who
42 will perform a safety inspection on the vehicles
43 that are part of the self-inspector's fleet.

~~Every person, firm or agency with employees meeting the following qualifications shall, upon application, be issued a license designating the person, firm or agency as a safety equipment inspection station:~~

- ~~(1) Be of good character and have a good reputation for honesty.~~
- ~~(2) Have adequate knowledge of the equipment requirements of the motor vehicle laws of North Carolina.~~
- ~~(3) Be able to satisfactorily conduct the mechanical inspection required by this Part.~~
- ~~(4) Have adequate facilities as to space and equipment in order to check each of the items of safety equipment listed herein.~~
- ~~(5) Have a general knowledge of motor vehicles sufficient to recognize a mechanical condition which is not safe.~~

~~Any person, firm or agency meeting the above requirements and desiring to be licensed as a motor vehicle inspection station may apply to the Commissioner of Motor Vehicles on forms provided by the Commissioner. The Commissioner shall cause an investigation to be made as to the applicant's qualifications, and if, in the opinion of the Commissioner, the applicant fulfills such qualifications, he shall issue a certificate of appointment to such person, firm or agency as a safety equipment inspection station. Such appointment shall be issued without charge and shall be effective until canceled by request of licensee or until revoked or suspended by the Commissioner. Any licensee whose license has been revoked or suspended or any applicant whose application has been refused may, within 10 days from the notice of such revocation, suspension or refusal, request a hearing before the Commissioner and, in such cases, the hearing shall be conducted within 10 days of receipt of request for such hearing. The Commissioner, following such hearing, may rescind the order of suspension, revocation or the refusal to issue license, or he may affirm the previous order of revocation, suspension or refusal. Any applicant or licensee aggrieved by the decision of the Commissioner may, following such decision, file a petition in the Superior Court of Wake County or in the county wherein applicant or licensee resides. Such petition shall recite the fact that the administrative remedy, as provided above, has been exhausted. Provided, that no restraining order shall issue against the Division of Motor Vehicles under this section until~~

1 and unless the Division shall have had at least five days' notice
2 of the petitioner's intention to seek such restraining order.

3 The Commissioner may designate the State or any political
4 subdivision thereof or any person, firm or corporation as self-
5 inspectors for the sole purpose of inspecting vehicles owned or
6 operated by such agencies, persons, firms, or corporations so
7 designated.

8 "§ 20-183.4A. License required to perform emissions inspection;
9 qualifications for license.

10 (a) License Required. -- An emissions inspection must be
11 performed by one of the following methods:

12 (1) At a station that has an emissions inspection
13 station license issued by the Division and by a
14 mechanic who is employed by the station and has an
15 emissions inspection mechanic license issued by the
16 Division.

17 (2) At a place of business of a person who has an
18 emissions self-inspector license issued by the
19 Division and by an individual who has an emissions
20 inspection mechanic license.

21 (b) Station Qualifications. -- An applicant for a license as an
22 emissions inspection station must meet all of the following
23 requirements:

24 (1) Have a license as a safety inspection station.

25 (2) Have an emissions analyzer approved by the
26 Environmental Management Commission.

27 (3) Have equipment to transfer information on emissions
28 inspections to the Division by electronic means.

29 (4) Regularly employ at least one mechanic who has an
30 emissions inspection mechanic license.

31 (c) Mechanic Qualifications. -- An applicant for a license as
32 an emissions inspection mechanic must meet all of the following
33 requirements:

34 (1) Have a license as a safety inspection mechanic.

35 (2) Have successfully completed an 8-hour course
36 approved by the Division that teaches students
37 about the causes and effects of the air pollution
38 problem, the purpose of the emissions inspection
39 program, the vehicle emission standards established
40 by the federal Environmental Protection Agency, the
41 emission control devices on vehicles, how to
42 conduct an emissions inspection using an emissions
43 analyzer approved by the Environmental Management
44 Commission, and any other topic required by 40

C.F.R. § 51.367 to be included in the course. Successful completion requires a passing score on a written test and on a hands-on test in which the student is required to conduct an emissions inspection of a motor vehicle.

(d) Self-inspector Qualifications. -- An applicant for a license as an emissions self-inspector must meet all of the following requirements:

- (1) Have a license as a safety self-inspector.
- (2) Operate a fleet of at least 10 vehicles that are subject to an emissions inspection.
- (3) Have or have a contract with a person who has an emissions analyzer approved by the Environmental Management Commission.
- (4) Regularly employ or contract with an individual who has an emissions inspection mechanic license and who will perform an emissions inspection on the vehicles that are part of the self-inspector's fleet.

"§ 20-183.4B. Application for license; duration of license; renewal of mechanic license.

(a) Application. -- An applicant for a license issued under this Part must complete an application form provided by the Division. The application must contain the applicant's name and address and any other information needed by the Division to determine whether the applicant is qualified for the license. The Division must review an application for a license to determine if the applicant qualifies for the license. If the applicant meets the qualifications, the Division must issue the license. If the applicant does not meet the qualifications, the Division must deny the application and notify the applicant in writing of the reason for the denial.

(b) Duration of License. -- A safety inspection mechanic license expires four years after the date it is issued. An emissions mechanic inspection license expires two years after the date it is issued. A safety inspection station license, an emissions inspection station license, and a self-inspector license are effective until surrendered by the license holder or suspended or revoked by the Division.

(c) Renewal of Mechanic License. -- A safety or an emissions inspection mechanic may apply to renew a license by filing an application with the Division on a form provided by the Division. To renew an emissions inspection mechanic license, an applicant must have successfully completed a 4-hour emissions refresher

1 course approved by the Division within nine months of applying
2 for renewal. Successful completion requires a passing score on a
3 written test and on a hands-on test in which the student is
4 required to conduct an emissions inspection of a motor vehicle.

5 "§ 20-183.4C. When a vehicle must be inspected.

6 A vehicle that is subject to a safety inspection, an emissions
7 inspection, or both must be inspected as follows:

- 8 (1) A new vehicle must be inspected before it is
9 offered for sale at retail in this State.
- 10 (2) A used vehicle must be inspected before it is
11 offered for sale at retail in this State by a
12 dealer at a location other than a public auction.
- 13 (3) A used vehicle that is offered for sale at retail
14 in this State by a dealer at a public auction must
15 be inspected before it is offered for sale unless
16 it has an inspection sticker that was put on the
17 vehicle under this Part and does not expire until
18 at least nine months after the date the vehicle is
19 offered for sale at auction.
- 20 (4) A used vehicle acquired by a resident of this State
21 from a person outside the State must be inspected
22 within 10 days after the vehicle is registered with
23 the Division.
- 24 (5) A vehicle owned by a new resident of the State who
25 transfers the registration of the vehicle from the
26 resident's former home state to this State must be
27 inspected within 10 days after the vehicle is
28 registered with the Division.
- 29 (6) A vehicle that has been inspected in accordance
30 with this Part must be inspected by the last day of
31 the month in which the inspection sticker on the
32 vehicle expires, unless another subdivision of this
33 section requires it to be inspected sooner.

34 "§ 20-183.4D. Procedure when a vehicle is inspected.

- 35 (a) Receipt. -- When a safety inspection mechanic or an
36 emissions inspection mechanic inspects a vehicle, the mechanic
37 must give the person who brought the vehicle in for inspection an
38 inspection receipt. The inspection receipt must state the date
39 of the inspection, identify the mechanic performing the
40 inspection, identify the station or self-inspector for whom the
41 inspection was performed, and list the components of the
42 inspection performed and indicate for each component whether the
43 vehicle passed or failed. A vehicle that fails a component of an

1 inspection may be repaired at any repair facility chosen by the
2 owner or operator of the vehicle.

3 (b) Sticker. -- When a vehicle that is subject to a safety
4 inspection only passes the safety inspection, the safety
5 inspection mechanic who performed the inspection must put an
6 inspection sticker on the windshield of the vehicle at the place
7 designated by the Division. When a vehicle that is subject to
8 both a safety inspection and an emissions inspection passes both
9 inspections or passes the safety inspection and has a waiver for
10 the emissions inspection, the emissions mechanic performing the
11 inspection must put an inspection sticker on the windshield of
12 the vehicle at the place designated by the Division.

13 (b) Content of Sticker. -- An inspection sticker issued for a
14 vehicle that is subject to a safety inspection only must be a
15 different color than an inspection sticker issued for a vehicle
16 that is subject to both a safety and an emissions inspection. An
17 inspection sticker must indicate when it expires, must be printed
18 with a unique serial number and an official program seal, and
19 must be counterfeit resistant. The side of an inspection sticker
20 that is readable from the interior of a vehicle must contain the
21 following information:

22 (1) The date the inspection was performed.

23 (2) The odometer reading when the inspection was
24 performed.

25 (3) The signature, initials, or other identification of
26 the mechanic who performed the inspection and put
27 the sticker on the windshield.

28 (d) When Sticker Expires. -- An inspection sticker put on a
29 vehicle that did not have an inspection sticker issued under this
30 Part when it was brought in for inspection expires at midnight on
31 the last day of the 12th month after the month the inspection
32 sticker is put on the vehicle. An inspection sticker put on a
33 vehicle that had an inspection sticker that was put on under this
34 Part when it was brought in for inspection expires as follows:

35 (1) If the expiration date of the inspection sticker
36 the vehicle had when it was brought in for
37 inspection is less than 12 full months from the
38 date of the inspection, the inspection sticker
39 expires at midnight on the last day of the 12th
40 month after the month the inspection sticker is put
41 on the vehicle.

42 (2) If the expiration date of the inspection sticker
43 the vehicle had when it was brought in for
44 inspection is 12 or more months from the date of

the inspection, the inspection sticker expires one year after the expiration date of the inspection sticker the vehicle had when it was brought in for inspection, regardless of whether there are 12 months in this period.

"§ 20-183.5. Supervision of safety equipment inspection stations. When a vehicle that fails an emissions inspection may obtain a waiver from the inspection requirement.

When a person, firm or agency is designated as a safety equipment inspection station the Commissioner of Motor Vehicles shall record such appointment and shall cause periodic checks to be made to determine that inspections are being conducted in accordance with this Part, and shall cause investigations to be made of bona fide complaints received regarding any such inspection station. The Division shall conduct administrative audits.

(a) Requirements. -- The Division may issue a waiver for a vehicle that meets all of the following requirements:

- (1) Fails an emissions inspection because it passes the visual inspection part of the inspection but fails the exhaust emissions analysis part of the inspection.
- (2) Has documented repairs costing at least the waiver amount made to the vehicle to correct the cause of the failure. The waiver amount is seventy-five dollars (\$75.00) if the vehicle is a pre-1981 model and is two hundred dollars (\$200.00) if the vehicle is a 1981 or newer model.
- (3) Is reinspected and again fails the inspection because it passes the visual inspection part of the inspection but fails the exhaust emissions analysis part of the inspection.
- (4) Meets any other waiver criteria required by 40 C.F.R. § 51.360.

(b) Procedure. -- To obtain a waiver, a person must contact a local enforcement office of the Division. Before issuing a waiver, an employee of the Division must review the inspection receipts issued for the inspections of the vehicle, review the documents establishing what repairs were made to the vehicle and at what cost, review any statement denying warranty coverage of the repairs made, and do a visual inspection of the vehicle, if appropriate, to determine if the documented repairs were made. The Division must issue a waiver if it determines that the vehicle qualifies for a waiver. A person to whom a waiver is

1 issued must present the waiver to the self-inspector or
2 inspection station performing the inspection to obtain an
3 inspection sticker.

4 (c) Repairs. -- The following repairs and their costs cannot be
5 considered in determining whether the cost of repairs made to a
6 vehicle equal or exceed the waiver amount:

7 (1) Repairs covered by a warranty that applies to the
8 vehicle.

9 (2) Repairs needed as a result of tampering with an
10 emission control device of the vehicle.

11 (3) If the vehicle is a 1981 or newer model, repairs
12 made by an individual who is not engaged in the
13 business of repairing vehicles.

14 (d) Sticker Expiration. -- An inspection sticker put on a
15 vehicle after the vehicle receives a waiver from the requirement
16 of passing the emissions inspection expires at the same time it
17 would if the vehicle had passed the emissions inspection.

18 ~~"§ 20-183.6. Commissioner of Motor Vehicles to establish~~
19 ~~procedures; unlawful possession, etc., of certificates.~~
20 ~~Businesses that replace windshields must register with Division~~
21 ~~to get inspection stickers.~~

22 ~~(a) The Commissioner of Motor Vehicles shall establish~~
23 ~~procedures for the control, distribution, sale, refund, and~~
24 ~~display of certificates and for the accounting for proceeds of~~
25 ~~their sale, consistent with this Article. It shall be unlawful~~
26 ~~knowingly to possess, affix, transfer, remove, imitate or~~
27 ~~reproduce an inspection certificate, except by direction of the~~
28 ~~Commissioner of Motor Vehicles under the terms of this Article.~~

29 ~~(b) Notwithstanding any other provision of this Article, those~~
30 ~~who replace windshields in motor vehicles shall place on the~~
31 ~~replacement windshield an inspection certificate having the same~~
32 ~~expiration date as the certificate attached to the windshield~~
33 ~~removed and shall retain the certificate attached to the~~
34 ~~windshield removed until 30 days after the expiration thereof. In~~
35 ~~addition to the authority granted in subsection (a), the~~
36 ~~Commissioner is hereby authorized to adopt and enforce such rules~~
37 ~~and regulations as may be necessary to carry out the provisions~~
38 ~~of this section.~~

39 A person who is engaged in the business of replacing
40 windshields on vehicles that are subject to inspection under this
41 Part may register with the Division to obtain replacement
42 inspection stickers for use on replaced windshields. A
43 replacement inspection sticker put on a windshield that has been
44 replaced must contain the same information and expire at the same

1 time as the inspection sticker it replaces. A person who puts a
2 replacement inspection sticker on a replaced windshield must
3 remove the inspection sticker from the windshield that was
4 replaced and keep the removed inspection sticker until 30 days
5 after it expires.

6 A person registered under this section must keep records of
7 replacement stickers put on replaced windshields and must be able
8 to account for all inspection stickers received from the
9 Division. The Division may suspend or revoke the registration of
10 a person under this section if the person fails to keep records
11 required by the Division or is unable to account for inspection
12 stickers received from the Division. An auditor of the Division
13 may review the records of a person registered under this section
14 during normal business hours.

15 "§ 20-183.6A. Administration of program; duties of license
16 holders.

17 (a) Division. -- The Division is responsible for administering
18 the safety inspection and the emissions inspection programs. In
19 exercising this responsibility, the Division must:

- 20 (1) Conduct performance audits, record audits, and
21 equipment audits of those licensed to perform
22 inspections to ensure that inspections are
23 performed properly.
- 24 (2) Ensure that Division personnel who audit license
25 holders are knowledgeable about audit procedures
26 and about the requirements of both the safety
27 inspection and the emissions inspection programs.
- 28 (3) Perform an emissions inspection on a vehicle when
29 requested to do so by a vehicle owner so the owner
30 can compare the result of the inspection performed
31 by the Division with the result of an inspection
32 performed at an emissions inspection station.
- 33 (4) Investigate complaints about a person licensed to
34 perform inspections and reports of irregularities
35 in performing inspections.
- 36 (5) Establish written procedures for the issuance of
37 inspection stickers to persons licensed to perform
38 inspections.
- 39 (6) Submit information and reports to the federal
40 Environmental Protection Agency as required by 40
41 C.F.R. Part 51.

42 (b) License Holders. -- A person who is licensed by the
43 Division under this Part must post the license at the place
44 required by the Division and must keep a record of inspections

1 performed. The inspection record must identify the vehicle that
2 was inspected, indicate the type of inspection performed and the
3 date of inspection, and contain any other information required by
4 the Division. A self-inspector or an inspection station must
5 send its records of inspections to the Division in the form and
6 at the time required by the Division. An auditor of the Division
7 may review the inspection records of a person licensed by the
8 Division under this Part during normal business hours.
9 ~~"§ 20-183.7. Charges for inspections and certificates; safety
10 equipment inspection station records. Fees for performing an
11 inspection and putting an inspection sticker on a vehicle; use of
12 civil penalties.~~

13 (a) ~~Fee Amount. -- Every safety equipment inspection station
14 shall charge a fee of six dollars and twenty-five cents (\$6.25)
15 effective October 1, 1990; and a fee of eight dollars and
16 twenty-five cents (\$8.25) effective October 1, 1993, for
17 inspecting a motor vehicle to determine compliance with the
18 safety inspection requirements of this Article and shall give the
19 vehicle operator a dated receipt, indicating the articles and
20 equipment approved and disapproved. At any time within 90 days
21 thereafter, when the receipt is presented to the inspection
22 station which issued it with a request for reinspection, that
23 inspection station shall reinspect the vehicle at no charge.
24 Whenever any vehicle is approved, the inspection station shall
25 obtain an additional fee of one dollar (\$1.00) for a valid
26 inspection certificate, and affix the certificate to that vehicle
27 or otherwise document the issuance of the certificate in a manner
28 prescribed by the Commissioner of Motor Vehicles. The following
29 fees apply to an inspection of a vehicle and the issuance of an
30 inspection sticker:~~

<u>Type</u>	<u>Inspection</u>	<u>Sticker</u>
<u>Safety Only</u>	<u>\$8.25</u>	<u>\$1.00</u>
<u>Emissions and Safety</u>	<u>17.00</u>	<u>2.40.</u>

34 ~~The fee for performing an inspection of a vehicle applies when
35 an inspection is performed, regardless of whether the vehicle
36 passes the inspection. The fee for an inspection sticker applies
37 when an inspection sticker is put on a vehicle.~~

38 ~~A vehicle that is inspected at an inspection station and fails
39 the inspection is entitled to be reinspected at the same station
40 at any time within 45 days of the failed inspection without
41 paying another inspection fee.~~

42 ~~(a) For inspection of vehicles required to be inspected under
43 the inspection/maintenance provisions of G.S. 20-183.3(b), every
44 safety equipment inspection station shall charge a fee of~~

1 thirteen dollars (\$13.00) effective October 1, 1990; and a fee of
 2 seventeen dollars (\$17.00) effective October 1, 1993, for
 3 inspecting a motor vehicle to determine compliance with the
 4 safety inspection requirements and the exhaust emission standards
 5 pursuant to the inspection/maintenance requirements of this
 6 Article and shall give the vehicle operator a dated receipt
 7 indicating the articles and equipment approved or disapproved and
 8 whether the vehicle met the emission control standards. If the
 9 vehicle is disapproved, at any time within 30 days thereafter
 10 when the receipt is presented to the inspection station which
 11 issued it with a request for reinspection, that inspection
 12 station shall reinspect the vehicle at no charge. Whenever any
 13 vehicle is approved, the inspection station shall obtain an
 14 additional fee of two dollars and forty cents (\$2.40) for a valid
 15 inspection certificate covering both the safety inspection
 16 requirements and the emission control inspection/maintenance
 17 requirements and affix the certificate to that vehicle or
 18 otherwise document the issuance of the certificate in a manner
 19 prescribed by the Commissioner of Motor Vehicles.

20 (b) Self-inspector. -- Self-inspector stations licensed under
 21 G.S. 20-183.4 are exempt from the inspecting fee provisions of
 22 subsection (a) above, but shall pay to the Division of Motor
 23 vehicles the prescribed certificate fee for each inspection
 24 certificate issued by it. The fee for an inspection does not
 25 apply to an inspection performed by a self-inspector. The fee
 26 for putting an inspection sticker on a vehicle applies to an
 27 inspection performed by a self-inspector.

28 (c) Fee Distribution. -- Fees collected for inspection
 29 certificates stickers are payable to the Division of Motor
 30 Vehicles. The amount of each fee listed in the table below shall
 31 be credited to the Highway Fund, the Emissions Program Account
 32 established in subsection (d) of this section, the Volunteer
 33 Rescue/EMS Fund established in G.S. 58-87-5, the Rescue Squad
 34 Workers' Relief Fund established in G.S. 58-88-5, and the
 35 Division of Environmental Management of the Department of
 36 Environment, Health, and Natural Resources:

<u>Fund or Agency</u> <u>Recipient</u>	<u>Fee Imposed-</u> <u>Under (a)</u> <u>Safety Only</u> <u>Sticker</u>	<u>Fee Imposed</u> <u>Under (a1)</u> <u>Emissions and</u> <u>Safety Sticker</u>
41 Highway Fund	.75	1.80 .00
42 Emissions Program Account	.00	1.80
43 Volunteer Rescue/EMS Fund	.15	.15
44 Rescue Squad Workers' Relief		

1	Fund	.10	.10
2	Division of Environmental		
3	Management	.00	.35.

4 ~~(d) Account. -- Each inspection station shall maintain a record~~
5 ~~of inspections performed, in a form approved by the Division of~~
6 ~~Motor Vehicles, for a period of 18 months and such records shall~~
7 ~~be made available for inspection by any law-enforcement officer,~~
8 ~~upon demand, during normal business hours. The Emissions Program~~
9 ~~Account is created as a nonreverting account within the Highway~~
10 ~~Fund. The Division shall administer the Account. Revenue in the~~
11 ~~Account may be used only to fund the vehicle emissions inspection~~
12 ~~and maintenance program.~~

13 ~~(e) Civil Penalties. -- Civil penalties collected under this~~
14 ~~Part shall be credited to the Highway Fund as nontax revenue."~~
15 ~~"§ 20-183.8. Commissioner of Motor Vehicles to issue regulations~~
16 ~~subject to approval of Governor; penalties for violation;~~
17 ~~fictitious or unlawful inspection certificate; 30-day grace~~
18 ~~period for expired inspection certificates. Infractions and~~
19 ~~criminal offenses for violations of inspection requirements.~~

20 ~~(a) It is the intent of the Article that the provisions herein~~
21 ~~shall be carried out by the Commissioner of Motor Vehicles for~~
22 ~~the safety and convenience of the motoring public. The~~
23 ~~Commissioner shall have authority to promulgate only such~~
24 ~~regulations as are reasonably necessary for the purpose of~~
25 ~~carrying out the provisions of this inspection program, but such~~
26 ~~regulations shall not be effective until the same have been~~
27 ~~approved by the Governor.~~

28 ~~(b) The Commissioner of Motor Vehicles is authorized to enter~~
29 ~~into agreements or arrangements with the duly authorized~~
30 ~~representatives of other jurisdictions whereby the safety~~
31 ~~equipment inspection required under this Article may be waived~~
32 ~~with respect to vehicles which have undergone substantially~~
33 ~~similar safety equipment inspections in such other jurisdictions~~
34 ~~and for which valid inspection certificates have been issued by~~
35 ~~such other jurisdictions. Such agreements or arrangements shall~~
36 ~~provide that vehicles inspected in this State and for which valid~~
37 ~~inspection certificates have been issued shall be accorded a~~
38 ~~similar privilege when subject to the laws of such other~~
39 ~~jurisdictions. Each such agreement or arrangement shall, in the~~
40 ~~judgment of the Commissioner, be in the best interest of this~~
41 ~~State and the citizens thereof and shall be fair and equitable to~~
42 ~~this State and citizens thereof; and all of the same shall be~~
43 ~~determined upon the basis and recognition of the benefits which~~

~~1 accrue to the citizens of this State by reason of the agreement
2 or arrangement.~~

~~3 The Commissioner is also authorized to promulgate rules and
4 regulations providing that the safety equipment inspection may be
5 waived with respect to any vehicle which has undergone a similar
6 inspection in another jurisdiction and for which a valid and
7 current inspection certificate has been issued by such other
8 jurisdiction.~~

~~9 (c) Except for the unauthorized reproduction of an inspection
10 sticker, violation of any provision of this Article is an
11 infraction which carries a penalty of not more than fifty dollars
12 (\$50.00). The unauthorized reproduction of an inspection sticker
13 is a forgery under G.S. 14-119.~~

~~14 (d) No person shall display or cause to be displayed or permit
15 to be displayed upon any motor vehicle any inspection
16 certificate, knowing the same to be fictitious or to be issued
17 for another motor vehicle or to be issued without inspection and
18 approval having been made. The Division is hereby authorized to
19 take immediate possession of any inspection certificate which is
20 fictitious or which has been otherwise unlawfully or erroneously
21 issued or which has been unlawfully used.~~

~~22 (e) No person shall be convicted of failing to display current
23 inspection certificate as provided under this Article if he
24 produces in court at the time of his trial a receipt from a
25 licensed motor vehicle inspection station showing that a valid
26 inspection certificate was issued for the vehicle involved within
27 30 days after expiration of the previous inspection certificate
28 issued for the vehicle.~~

~~29 (f) It shall be unlawful for any person to attach an inspection
30 certificate to a vehicle if he knows, or has reasonable grounds
31 to know, that the required inspection has not been performed
32 according to law, including rules and regulations promulgated by
33 the Commissioner.~~

~~34 (a) Infractions. -- A person who does any of the following
35 commits an infraction and, if found responsible, is liable for a
36 penalty of up to fifty dollars (\$50.00):~~

~~37 (1) Operates a motor vehicle that is subject to
38 inspection under this Part on a highway or public
39 vehicular area in the State when the vehicle has
40 not been inspected in accordance with this Part, as
41 evidenced by the vehicle's lack of a current
42 inspection sticker or otherwise.~~

~~43 (2) Allows an inspection sticker to be put on a vehicle
44 owned or operated by that person, knowing that the~~

vehicle was not inspected before the sticker was attached or was not inspected properly.

- (3) Attaches an inspection sticker to a vehicle, knowing or having reasonable grounds to know an inspection of the vehicle was not performed or was performed improperly.

(b) Defenses to Infractions. -- Any of the following is a defense to a violation under subsection (a) of this section:

- (1) The vehicle was continuously out of State for at least the 30 days preceding the date the inspection sticker expired and a current inspection sticker was obtained within 10 days after the vehicle came back to the State.

- (2) The vehicle displays a dealer license plate or a transporter plate, the dealer repossessed the vehicle or otherwise acquired the vehicle within the last 10 days, and the vehicle is being driven from its place of acquisition to the dealer's place of business or to an inspection station.

- (3) The vehicle was in a state of disrepair and was not driven for at least the thirty days preceding the date the inspection sticker expired, the owner repaired the vehicle, and the vehicle is being driven from the owner's residence or other place where it was repaired to an inspection station.

- (4) The charged infraction is described in subdivision (a)(1) of this section, the vehicle is subject to a safety only inspection, and the vehicle owner establishes in court that the vehicle was inspected after the citation was issued and within 30 days of the expiration date of the inspection sticker that was on the vehicle when the citation was issued.

(c) Felony. -- A person who forges an inspection sticker commits a Class I felony.

"§ 20-183.8A. Civil penalties against motorists for emissions violations.

The Division must assess a civil penalty against a person who owns or leases a vehicle that is subject to an emissions inspection and who does any of the following:

- (1) Fails to have the vehicle inspected within four months after it is required to be inspected under this Part.
- (2) Instructs or allows a person to tamper with an emission control device of the vehicle so as to

make the device inoperative or fail to work properly.

- (3) Incorrectly states the county of registration of the vehicle to avoid having an emissions inspection of the vehicle.

The amount of the penalty is one hundred dollars (\$100.00) if the vehicle is a pre-1981 vehicle and is two hundred twenty-five dollars (\$225.00) if the vehicle is a 1981 or newer model vehicle.

"§ 20-183.8B. Civil penalties against license holders and suspension or revocation of license for emissions violations.

(a) Kinds of Violations. -- The civil penalty schedule established in this section applies to emissions self-inspectors, emissions inspection stations, and emissions inspection mechanics. The schedule categorizes emissions violations into serious (Type I), minor (Type II), and technical (Type III) violations.

A serious violation is a violation of this Part or a rule adopted to implement this Part that directly affects the emission reduction benefits of the emissions inspection program. A minor violation is a violation of this Part or a rule adopted to implement this Part that reflects negligence or carelessness in conducting an emissions inspection or complying with the emissions inspection requirements but does not directly affect the emission reduction benefits of the emissions inspection program. A technical violation is a violation that is not a serious violation, a minor violation, or another type of offense under this Part.

(b) Penalty Schedule. -- The Division must take the following action for a violation:

- (1) Type I. -- For a first or second Type I violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for six months. For a third or subsequent Type I violation within 10 years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one thousand dollars (\$1,000) and revoke the license of the business for two years.

For a first or second Type I violation by an emissions inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for six months. For

a third or subsequent Type I violation within 10 years by an emissions inspection mechanic, assess a civil penalty of two hundred fifty dollars (\$250.00) and revoke the mechanic's license for two years.

- (2) Type II. -- For a first or second Type II violation by an emissions self-inspector or an emissions inspection station, assess a civil penalty of one hundred dollars (\$100.00). For a third or subsequent Type II violation within 10 years by an emissions self-inspector or an emissions inspection station, assess a civil penalty of two hundred fifty dollars (\$250.00) and suspend the license of the business for 90 days.

For a first or second Type II violation by an emissions inspection mechanic, assess a civil penalty of fifty dollars (\$50.00). For a third or subsequent Type II violation within 10 years by an emissions inspection mechanic, assess a civil penalty of one hundred dollars (\$100.00) and suspend the mechanic's license for 90 days.

- (3) Type III. -- For a first or second Type III violation by an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic, send a warning letter. For a third or subsequent Type III violation within 10 years by the same emissions license holder, assess a civil penalty of twenty-five dollars (\$25.00).

(c) Station or Self-inspector Responsibility. -- It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A Type I violation by an emissions inspector mechanic is considered a Type I violation by the station or self-inspector for whom the mechanic is employed. A Type II or III violation by an emissions mechanic is not automatically a Type II or III violation by the station or self-inspector for whom the mechanic is employed. The Division may determine which Type II or Type III violations by an emissions mechanic are also violations by the station or self-inspector.

(d) Missing Stickers. -- The Division must assess a civil penalty against an emissions inspection station or an emissions self-inspector that cannot account for an emissions inspection sticker issued to it. A station or a self-inspector cannot account for a sticker when the sticker is missing and the station

1 or self-inspector cannot establish reasonable grounds for
2 believing the sticker was stolen or destroyed by fire or another
3 accident.

4 The amount of the penalty is twenty-five dollars (\$25.00) for
5 each missing sticker. If a penalty is imposed under subsection
6 (b) of this section as the result of missing stickers, the
7 monetary penalty that applies is the higher of the penalties
8 required under this subsection and subsection (b); the Division
9 may not assess a monetary penalty as a result of missing stickers
10 under both this subsection and subsection (b). Imposition of a
11 monetary penalty under this subsection does not affect suspension
12 or revocation of a license required under subsection (b).

13 "§ 20-183.8C. Acts that are Type I, II, or III emissions
14 violations.

15 ((a) Type I. -- It is a Type I violation for an emissions self-
16 inspector, an emissions inspection station, or an emissions
17 inspection mechanic to do any of the following:

- 18 (1) Put an emissions inspection sticker on a vehicle
19 without performing an emissions inspection of the
20 vehicle or after performing an emissions inspection
21 in which the vehicle did not pass the inspection.
- 22 (2) Use a test-defeating strategy when conducting an
23 emissions inspection, such as holding the
24 accelerator pedal down slightly during an idle
25 test, disconnecting or crimping a vacuum hose to
26 effect a passing result, or changing the emission
27 standards for a vehicle by incorrectly entering the
28 vehicle type or model year to achieve a passing
29 result.
- 30 (3) Allow a person who is not licensed as an emissions
31 inspection mechanic to perform an emissions
32 inspection for a self-inspector or at an emissions
33 station.
- 34 (4) Sell or otherwise give an inspection sticker to
35 another other than as the result of a vehicle
36 inspection in which the vehicle passed the
37 inspection or for which the vehicle received a
38 waiver.
- 39 (5) Be unable to account for five or more inspection
40 stickers.
- 41 (6) Perform a safety only inspection on a vehicle that
42 is subject to both a safety and an emissions
43 inspection.

(7) Transfer an inspection sticker from one vehicle to another.

(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Use the identification code of another to gain access to an emissions analyzer.

(2) Keep inspection stickers and other compliance documents in a place that is easily accessible by the public.

(c) Type III. -- It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to any of the following:

(1) Fail to post an emissions license issued by the Division.

(2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.

(d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation.

"§ 20-183.8D. Suspension or revocation of license for safety violations.

The Division may suspend or revoke a safety self-inspector license, a safety inspection station license, and a safety inspection mechanic license issued under this Part if the license holder fails to comply with this Part or a rule adopted by the Commissioner to implement this Part.

"§ 20-183.8E. Administrative and judicial review.

A person whose application for a license or registration is denied, whose license or registration is suspended or revoked, who is assessed a civil penalty, or who receives a warning letter under this Part may obtain an administrative review of the action by the Commissioner by filing with the Division a written request for a hearing before the Commissioner. A request for a hearing must be filed within 10 days after the person receives written notice of the action for which a hearing is requested.

If the action that is the subject of a request for a hearing is the suspension or revocation of an emissions self-inspector license, an emissions inspection station license, or an emissions inspection mechanic license, the Commissioner must hold the hearing within 14 days after the Division receives the request.

1 If the action that is the subject of a request for a hearing is
2 not one of these actions, the Commissioner must hold a hearing
3 within 90 days after the Division receives the request.

4 After a hearing on the imposition of a monetary penalty against
5 a motorist for an emissions violation or on a Type I, II, or III
6 emissions violation by an emissions license holder, the
7 Commissioner must uphold any monetary penalty, license
8 suspension, license revocation, or warning required by G.S. 20-
9 183.8A or 20-183.8B, respectively, if the Commissioner finds that
10 the motorist or license holder committed the act for which the
11 monetary penalty, license suspension, license revocation, or
12 warning was imposed. After a hearing on any other action, the
13 Commissioner may uphold or modify the action.

14 Article 4 of Chapter 150B of the General Statutes governs
15 judicial review of an administrative decision by the Commissioner
16 under this section."

17 Sec. 2. The heading to Article 3A of Chapter 20 of the
18 General Statutes reads as rewritten:

19 "ARTICLE 3A.

20 "~~Motor Vehicle Law of 1947. Safety and Emissions Inspection~~
21 Program.

22 Sec. 3. Part 1 of Article 3A of Chapter 20 of the
23 General Statutes is repealed.

24 Sec. 4. G.S. 20-127(e) is repealed.

25 Sec. 5. G.S. 20-128.2(b) is repealed.

26 Sec. 6. G.S. 20-384 reads as rewritten:

27 "~~§ 20-384. Safety regulations applicable to motor carrier and~~
28 ~~private carrier vehicles. Carriers must comply with safety rules~~
29 ~~and regulations.~~

30 (a) Scope. -- The Division of Motor Vehicles may promulgate
31 adopt highway safety rules and regulations for all for-hire motor
32 carrier vehicles and all private carrier vehicles engaged in
33 interstate commerce and intrastate commerce over the highways of
34 North Carolina whether common carriers, contract carriers, exempt
35 carriers, or private carriers.

36 (b) Infraction. -- A motor carrier who fails to conduct a
37 safety inspection of a vehicle as required by 49 C.F.R. Part 396,
38 the federal Motor Carrier Safety Regulations, or who fails to
39 mark a vehicle that has been inspected as required by that Part
40 commits an infraction and, if found responsible, is liable for a
41 penalty of up to fifty dollars (\$50.00)."

42 Sec. 7. Effective October 1, 1996, G.S. 20-54 reads as
43 rewritten:

1 "§ 20-54. Authority for refusing registration or certificate of
2 title.

3 The Division shall refuse registration or issuance of a
4 certificate of title or any transfer of registration upon any of
5 the following grounds:

6 (1) ~~That the~~ The application contains ~~any a~~ false or
7 fraudulent ~~statement or that statement,~~ the
8 applicant has failed to furnish required
9 information or reasonable additional information
10 requested by the ~~Division or that Division,~~ or the
11 applicant is not entitled to the issuance of a
12 certificate of title or registration of the vehicle
13 under this ~~Article;~~ Article.

14 (2) ~~That the~~ The vehicle is mechanically unfit or
15 unsafe to be operated or moved upon the ~~highways;~~
16 highways.

17 (3) ~~That the~~ The Division has reasonable ground to
18 believe that the vehicle is a stolen or embezzled
19 vehicle, or that the granting of registration or
20 the issuance of a certificate of title would
21 constitute a fraud against the rightful owner or
22 ~~other another~~ person having who has a valid lien
23 upon such vehicle; against the vehicle.

24 (4) ~~That the~~ The registration of the vehicle stands
25 suspended or revoked for any reason as provided in
26 the motor vehicle laws of this ~~State;~~ State.

27 (5) ~~That the~~ The required fee has not been paid.

28 (6) The vehicle is not in compliance with the emissions
29 inspection requirements of Part 2 of Article 3A of
30 this Chapter or a civil penalty assessed as a
31 result of the failure of the vehicle to comply with
32 that Part has not been paid."

33 Sec. 8. Effective October 1, 1996, G.S. 20-183.8A, as
34 enacted by Section 1 of this act, reads as rewritten:

35 "§ 20-183.8A. Civil penalties against motorists for emissions
36 violations.

37 The Division must assess a civil penalty against a person who
38 owns or leases a vehicle that is subject to an emissions
39 inspection and who does any of the following:

40 (1) Fails to have the vehicle inspected within four
41 months after it is required to be inspected under
42 this Part.

43 (2) Instructs or allows a person to tamper with an
44 emission control device of the vehicle so as to

1 make the device inoperative or fail to work
2 properly.

- 3 (3) Incorrectly states the county of registration of
4 the vehicle to avoid having an emissions inspection
5 of the vehicle.

6 The amount of penalty is one hundred dollars (\$100.00) if the
7 vehicle is a pre-1981 vehicle and two hundred fifty dollars
8 (\$250.00) if the vehicle is a 1981 or newer model vehicle. As
9 provided in G.S. 20-54, the registration of a vehicle may not be
10 renewed until a penalty imposed under this subsection has been
11 paid."

12 Sec. 9. Temporary Computer Matching. -- From the
13 effective date of this act until October 1, 1996, the Division of
14 Motor Vehicles of the Department of Transportation shall ensure
15 motorist compliance with the emissions inspection requirements of
16 Part 2 of Article 3A of Chapter 20 of the General Statutes by the
17 following computer matching method:

- 18 (1) Determine from data supplied by emissions
19 inspection stations if each vehicle that is subject
20 to the emissions inspection requirements, and for
21 which the Division issues or renews a registration,
22 and has a current inspection sticker.
- 23 (2) Send a warning letter to the owner of each vehicle
24 that is not in compliance notifying the owner that
25 the vehicle is not in compliance, that the Division
26 will check to see if the vehicle is brought into
27 compliance within 30 days of the date the letter is
28 mailed, and that failure to comply will result in
29 revocation of the registration of the vehicle.
- 30 (3) Check to determine if a vehicle is brought into
31 compliance as required by the letter.
- 32 (4) Send a notice of violation and a notice of penalty
33 to the owner of a vehicle that has not been brought
34 into compliance in accordance with the first
35 letter. The letter must notify the owner that the
36 registration of the vehicle will be revoked
37 effective 30 days from the date the second letter
38 is mailed if the owner does not bring the vehicle
39 into compliance within that time and pay any
40 penalty that is due. The Division must assess a
41 civil penalty against the owner of a vehicle that
42 was not inspected within four months of the time it
43 was required to be inspected. The penalty is the

amount set in G.S. 20-183.8A, as enacted by Section 1 of this act.

- (5) Revoke the registration and pick up the registration plate for a vehicle whose owner has has failed to bring the vehicle into compliance or pay a required penalty within 30 days after the second letter.

Sec. 10. The Joint Legislative Transportation Oversight Committee shall review the definition of a transaction that is set in the Current Operations Appropriations Act and establishes the method by which branch agents of the Division of Motor Vehicles of the Department of Transportation are reimbursed. The review shall evaluate whether the definition will adequately compensate branch agents for the time involved in denying a vehicle registration and explaining the reason for the denial when a vehicle registration is denied for failure to have an emissions inspection or pay an emissions inspection civil penalty. The review may include a review of the branch agent compensation and time involved in similar activities, such as the denial of a vehicle registration for failure to pay property taxes. The Committee shall report its findings to the 1995 General Assembly.

Sec. 11. The Division of Motor Vehicles of the Department of Transportation shall study the problem of the unlawful transfer of a vehicle inspection sticker from one vehicle to another. In studying this problem, the Division shall consider whether the current design of the inspection sticker can be improved so that an inspection sticker cannot be removed from a vehicle without tearing or otherwise becoming unusable and whether inspection stickers will be necessary when denial of vehicle registration becomes effective October 1, 1996. The Division shall also consider whether some vehicles, such as public school buses, should be exempt from the requirement that a vehicle display an inspection sticker to prevent vandalism of buses that occurs when a person unlawfully removes an inspection sticker from the windshield of a bus. The Division shall report its findings to the Joint Legislative Transportation Oversight Committee by December 1, 1994.

Sec. 12. Sections 1 through 6 of this act become effective October 1, 1994. Sections 7 and 8 of this act become effective October 1, 1996. The remaining sections of this act are effective upon ratification.

Explanation of Proposal 1

EMISSIONS INSPECTION CHANGES

This proposal brings the State vehicle emissions inspection program into compliance with federal law and makes administrative and technical changes to both the emissions inspection program and the safety inspection program to enable the Division of Motor Vehicles (DMV) of the Department of Transportation to administer the programs more efficiently. Most of the changes become effective October 1, 1994; however, the computer matching component of the motorist compliance provisions is effective upon ratification and the registration denial component of these provisions becomes effective October 1, 1996.

Currently, North Carolina is not in compliance with 40 C.F.R. Part 51, the regulations adopted by the federal Environmental Protection Agency (EPA) to implement the 1990 amendments to the federal Clean Air Act, and has not been in compliance since January 1, 1994. If the State does not change its law to comply with these regulations and submit to EPA a State Implementation Plan concerning the emissions program, the State can be sanctioned for its failure to comply.

There are two sanctions for failure to comply with 40 C.F.R. Part 51. They are the withholding of federal highway funds, except safety funds, in the emission counties and the imposition of a 2:1 offset requirement as a condition of the issuance of a new air discharge permit in the emission counties. The sanction concerning federal highway funds can be imposed by EPA only if the United States Department of Transportation concurs. The offset sanction can be imposed by EPA without the concurrence of any other agency. The emission counties are Wake, Durham, Orange, Guilford, Forsyth, Mecklenburg, Gaston, Cabarrus, and Union.

The changes in the law are outlined below according to the type of change.

CHANGES NEEDED TO COMPLY WITH FEDERAL LAW

- (1) **Establishment of a dedicated, nonreverting fund to provide revenue for the emissions inspection program:** The proposal amends G.S. 20-183.7 to create the Emissions Program Account and to shift from the Highway Fund to this Account the portion of the emissions inspection sticker fee that currently goes to the Highway Fund. The portion is \$1.80 of the \$2.40 fee. For fiscal year 1993-94, the \$1.80 is expected to generate \$2.8 million.

EXPLANATION OF PROPOSAL 1 (Continued)

- (2) **Establishment of a mechanism to deny or revoke the registration of a vehicle that fails to comply with the emissions inspection requirements:** Section 9 of the proposal establishes a temporary computer matching system to be in effect until October 1, 1996. Section 8 establishes an automatic registration denial system effective October 1, 1996. The two systems are included because automatic vehicle registration denial is the best method but it cannot be implemented until DMV's vehicle registration computer system is overhauled, which will not occur until October 1, 1996. Consequently, until then, a different system must be used.
- (3) **Monetary penalties against vehicle owners who do not comply with the emissions inspection requirements:** Federal law requires mandatory monetary penalties that constitute a meaningful deterrent. Proposed G.S. 20-183.8A, in Section 1 of the bill, imposes a civil penalty against vehicle owners in three circumstances — failure to have a vehicle inspected within 4 months after its sticker expired, tampering with the emission control devices of a vehicle, or falsely registering a vehicle to avoid the emissions inspection requirements. The penalty is \$100 if the vehicle is a pre-1981 vehicle and is \$220 if the vehicle is a 1981 or newer model.
- (4) **Monetary penalties against emissions license holders and suspension or revocation of an emissions license:** Federal law requires a penalty schedule that imposes "swift, sure, effective, and consistent penalties" for violations of the emissions inspection procedures. The schedule must categorize and list the penalties for first, second, and subsequent violations, impose mandatory minimum \$100 penalties against an emissions mechanic for serious violations, and suspend the station's license and the mechanic's license for serious violations.

Proposed G.S. 20-183.8B and 20-183.8C, in Section 1, establish the penalty schedule and list violations. The schedule categorizes violations into three types — serious, minor, and technical — and establishes penalties for first, second, third, and subsequent violations of each type of violation. The penalty for a first or second serious violation by a mechanic is \$100 and revocation of the license for 6 months. The penalty for a third or subsequent serious violation by a mechanic is \$250 and revocation of the license for 2 years. The penalties for a station are higher — \$250 and \$1000 — but the revocation period is the same. The penalties for minor and technical violations are scaled down accordingly.
- (5) **Increased Licensing Requirements for Mechanics.** — Federal law requires inspector mechanics to be licensed, to pass an 8-hour emissions course to be licensed, to renew the license every 2 years, and to pass a 4-hour refresher course in order to renew. Proposed G.S. 20-183.4A and

EXPLANATION OF PROPOSAL 1 (Continued)

20-183.4B, in Section 1, codify the current emissions licensing requirements that have been implemented through administrative practice and revise these requirements to meet the requirements of federal law. Station and Mechanic inspections for intentionally doing an improper inspection.

- (6) **Sticker Expiration Dates.** — Federal law requires a sticker issued for a vehicle whose inspection is overdue to become effective the day it would have become effective if the vehicle had been inspected in a timely way. Proposed G.S. 20-183.4D(d) makes this change.

CHANGES TO IMPROVE THE INSPECTION PROGRAMS

- (1) **Establishing a uniform time period for reinspection of a vehicle without payment of an inspection fee:** G.S. 20-183.7, as amended by Section 1 of the proposal, sets a 45-day period for both safety and emissions reinspections without charge. Current law allows 90 days for a reinspection without charge when a vehicle fails a safety inspection and 30 days when it fails an emissions inspection. The proposal changes both to 45 days to make the same time limit apply to both. Emissions repairs are no less complicated and time consuming than safety repairs, and the difference in these time periods adds unnecessary complication to the program.
- (2) **Elimination of one-way permits in favor of defenses to violations:** Current law authorizes the Division to issue a one-way permit to drive a vehicle with an expired inspection sticker to a place to be inspected. These permits are typically issued for vehicles whose stickers have expired while the vehicles were in a state of disrepair and could not be driven. The proposal eliminates the need for permits in these circumstances by making it a defense to a citation to drive a vehicle in these circumstances to be repaired. This eliminates the administrative time needed to issue the permit and the time spent by the motorist in trying to obtain a permit.
- (3) **Administrative Hearing Time Limits:** Current law requires administrative hearings on inspection violations to be held by the Commissioner within 10 days. This time limit is not met now: persons requesting a hearing are asked to agree to waive the right to a hearing within the 10-day limit. The proposal, in proposed G.S. 20-183.8E of Section 1, eliminates the 10-day limit, establishes a 14-day limit for hearings on revocations or suspensions of an emissions license, and establishes a 90-day limit for all other inspection hearings. The 14-day limit is required by federal law.

EXPLANATION OF PROPOSAL 1 (Continued)

- (4) **Including Leased Federal Installations Within the Emissions Program:** Federal law requires vehicles operated on federal installations that are within an emissions county and are owned by the federal government to be subject to an emissions inspection. The proposal defines a federal installation to include property leased by the federal government as well as owned. This simplifies the program for federal installations and establishes a policy that does not vary depending on how the federal government chooses to provide property for its agencies. The method of providing property is unrelated to the emissions produced by vehicles and cannot be determined without investigation. The EPA complex in the Research Triangle, for example, is leased rather than owned.
- (5) **Assessing emissions license holders a penalty of \$25 for each sticker that is missing:** Current law imposes no monetary penalties for missing stickers or any other inspection violations. This penalty is imposed to address the problem created by stickers that are "lost" by stations. DMV reported that it is not uncommon for an officer at DMV to find that a station has over 100 stickers missing and no plausible explanation of what happened to them.

TECHNICAL CHANGES

The proposal makes numerous technical and clarifying changes. Most importantly, it clarifies which vehicles are subject to inspection, what the inspection entails, and who can perform the inspection. In making the clarifying changes, it codifies the current administrative practice concerning safety and emissions inspections and, except for the changes required by federal law, the requirements for various licenses.

The emissions program is a one-paragraph afterthought in the current law. This proposal integrates the emissions requirements into the statutes and distinguishes between safety inspections and emissions inspections.

The proposal also makes conforming changes and moves various provisions in current law from one place to another. Section 2 renames the Article that contains the inspection programs from the "Motor Vehicle Law of 1947" to "Safety and Emissions Inspection Program" because there is nothing substantive left in the Article that was enacted in 1947. Section 3 repeals the remaining vestige of the 1947 act because the purposes stated in the repealed Part are no longer accompanied by statutes that implement the stated purposes.

EXPLANATION OF PROPOSAL 1 (Continued)

Section 4 repeals G.S. 20-127(e) because it is incorporated in G.S. 20-183.3(a)(5) as amended in Section 1. Section 5 repeals G.S. 20-128.2(b) because it is incorporated in G.S. 20-183.3(b) as amended in Section 1. Section 6 moves from current G.S. 20-183.2(a) and 20-183.8(c) to G.S. 20-384 the requirement that a motor carrier comply with the federal Motor Carrier Safety Regulations and the infraction for failure to do so.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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D

Proposal 2 (93-LJZ-33V4)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DMV and DOT Technical Changes. (Public)

Sponsors: Senators Lee, Hoyle, Marshall, Martin of Pitt,
Plexico, Simpson, Smith, and Speed.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL, CONFORMING, AND ADMINISTRATIVE CHANGES
3 TO THE MOTOR VEHICLE LAWS AND OTHER LAWS CONCERNING THE
4 DEPARTMENT OF TRANSPORTATION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 20-17(2) reads as rewritten:
7 "(2) Either of the following impaired driving offenses:
8 a. Impaired driving under G.S. 20-138.1.
9 b. Impaired driving under G.S. 20-138.2 when the
10 person convicted did not take a chemical test
11 at the time of the offense or the person took
12 a chemical test at the time of the offense and
13 the test revealed that the person had an
14 alcohol concentration at any relevant time
15 after driving of less than 0.04 or of ~~0.10~~
16 0.08 or more."

**** EXPLANATION ****

Chapter 285 of the 1993 Session Laws changed the alcohol concentration level required for a conviction of driving while impaired from 0.10 to 0.08. That Chapter failed to make a conforming change to G.S. 20-17, which lists the circumstances under which a driver's license is revoked for regular driving while impaired or commercial driving while impaired. This section makes the needed conforming change.

* * * *

1
2 Sec. 2. G.S. 20-28(a), as amended by Section 320 of
3 Chapter 539 of the 1993 Session Laws, reads as rewritten:
4 "(a) Driving While License Revoked. -- Any person whose drivers
5 license has been ~~revoked, other than permanently,~~ revoked who
6 drives any motor vehicle upon the highways of the State while the
7 license is revoked is guilty of a Class 1 misdemeanor. Upon
8 conviction, the person's license shall be revoked for an
9 additional period of one year for the first offense, two years
10 for the second offense, and permanently for a third or subsequent
11 offense.

12 The restoree of a revoked drivers license who operates a motor
13 vehicle upon the highways of the State without maintaining
14 financial responsibility as provided by law shall be punished as
15 for operating without a drivers license."

16 Sec. 3. G.S. 20-28(b), as amended by Section 321 of the
17 1993 Session Laws, is repealed.

**** EXPLANATION ****

These two sections merge driving while license revoked, other than permanently, and driving while license permanently revoked because they are both Class 1 misdemeanors under the structured sentencing scheme enacted by Chapter 539 of the 1993 Session Laws. The punishment for a person who drives while a license is permanently revoked will be stiffer than for a person who drives with a license that is revoked for a period other than permanently because, to get to the point of having a permanently revoked license, a person must have at least two prior convictions of driving with a revoked license. These prior convictions will move the person into a higher prior conviction level.

18
19 Sec. 4. G.S. 20-35, as amended by Section 324 of
20 Chapter 539 of the 1993 Session Laws, reads as rewritten:
21 "§ 20-35. Penalties for ~~misdemeanor,~~ violating Article; defense
22 to driving without a license.

23 (a) Penalty. -- A violation of this Article is a Class 2
24 misdemeanor unless a statute in the Article sets a different
25 punishment for the violation. If a statute in this Article sets
26 a different punishment for a violation of the Article, the
27 different punishment applies. It shall be a Class 2 misdemeanor
28 to violate any of the provisions of this Article unless such
29 violation is by this Article or other law of this State declared
30 to be a felony.

31 (b) Unless another penalty is in this Article or by the laws of
32 this State provided, every person convicted of a Class 2
33 misdemeanor.

34 (c) Defenses. -- A person may not be convicted of failing to
35 carry a regular drivers license if, when tried for that offense,

1 the person produces in court a regular drivers license issued to
2 the person that was valid when the person was charged with the
3 offense. A person may not be convicted of driving a motor
4 vehicle without a regular drivers license if, when tried for that
5 offense, the person shows all the following:

- 6 (1) That, at the time of the offense, the person had an
7 expired license.
- 8 (2) The person renewed the expired license within 30
9 days after it expired and now has a drivers
10 license.
- 11 (3) The person could not have been charged with driving
12 without a license if the person had the renewed
13 license when charged with the offense."

**** EXPLANATION ****

Chapter 539 of the 1993 Session Laws classified misdemeanor offenses as Class 1, Class 2, or Class 3 misdemeanors so they would fit into the structured sentencing scheme enacted by Chapter 538 of the 1993 Session Laws. Section 324 of that act changed the "default" punishment for violations of Article 2, the drivers license article, of Chapter 20 of the General Statutes from a 6-month, \$500 misdemeanor to a Class 2 misdemeanor. The "default" punishment is the punishment that applies when the law does not specify any other punishment.

The changes left inaccurate provisions in subsection (a) of this section as well as an incomplete sentence in subsection (b) that, if corrected, would do nothing more than repeat subsection (a). This section corrects these problems by rewriting subsection (a) so that it applies to all offenses in Article 2 and deletes subsection (b). Current subsection (a) is inaccurate because it implies that Article 2 contains only felonies and Class 2 misdemeanors. The Article includes other classes of misdemeanors in addition to Class 2.

* * * *

14 Sec. 5. G.S. 20-66, as amended by Section 2 of Chapter
15 467 of the 1993 Session Laws, reads as rewritten:

16 "**§ 20-66. Renewal of vehicle ~~registration; prorated fees-~~**
17 **registration.**

18 (a) Annual Renewal. -- The registration of a vehicle must be
19 renewed annually. To renew the registration of a vehicle, the
20 owner of the vehicle must file an application with the Division
21 and pay the required registration fee. The Division may receive
22 and grant an application for renewal of registration at any time
23 before the registration expires.

24 (b) Method of Renewal. -- When the Division renews the
25 registration of a vehicle, it must issue a new registration card
26 for the vehicle and either a new registration plate or a
27 registration renewal sticker. The Division may ~~not~~ renew a
28 registration plate for a any type of vehicle by means of a
29 renewal sticker unless the Division is authorized to use that
30 method of renewal. ~~The Division may renew a registration plate~~

~~1 issued for the following types of vehicles by means of a renewal
2 sticker:~~

~~3 (1) Motorcycles.~~

~~4 (2) Private passenger vehicles.~~

~~5 (3) U-drive-it passenger vehicles.~~

~~6 (4) Property-hauling vehicles licensed for 4,000 pounds
7 gross weight.~~

~~8 (5) Vehicles registered under the International
9 Registration Plan.~~

~~10 (6) Trailers. sticker.~~

(b1) Repealed by Session Laws 1993, c. 467, s. 2.

(c) Renewal Stickers. -- A registration renewal sticker issued by the Division must be displayed on the registration plate that it renews in the place prescribed by the Commissioner and must indicate the period for which it and the registration plate on which it is displayed are valid. Except where physical differences between a registration renewal sticker and a registration plate render a provision of this Chapter inapplicable, the provisions of this Chapter relating to registration plates apply to registration renewal stickers.

~~(d) Staggered Expiration. -- The Division may issue registration plates for vehicles with expiration dates that vary from month to month so that an approximately equal number will expire during each month of the registration year.~~

~~(e) Prorated Fee. -- A vehicle license fee shall be computed by dividing the annual license fee by 12 and multiplying the quotient by the number of months remaining prior to the end of the month of expiration of the registration. Amounts so computed shall be rounded to the nearest multiple of twenty-five cents (25c).~~

(f) Repealed by Session Laws 1993, c. 467, s. 2.

(g) When Renewal Sticker Expires. -- The registration of a vehicle that is renewed by means of a registration renewal sticker expires at midnight on the last day of the month designated on the sticker. It is lawful, however, to operate the vehicle on a highway until midnight on the fifteenth day of the month following the month in which the sticker expired. The Division may vary the expiration dates of registration renewal stickers issued for a type of vehicle so that an approximately equal number expires at the end of each month, quarter, or other period consisting of one or more months. When the Division implements registration renewal for a type of vehicle by means of a renewal sticker, it may issue a registration renewal sticker

1 that expires at the end of any monthly interval beginning at nine
2 months and ending at eighteen months.

3 (h) When Calendar-Year Plate Expires. -- The registration of a
4 vehicle that is not renewed by means of a registration renewal
5 sticker expires at midnight on December 31 of each year. It is
6 lawful, however, to operate the vehicle on a highway until
7 midnight on the following February 15.

8 (i) Property Tax Consolidation. -- When the Division receives
9 an application under subsection (a) for the renewal of
10 registration before the current registration expires, the
11 Division shall grant the application if it is made for the
12 purpose of consolidating the property taxes payable by the
13 applicant on classified motor vehicles, as defined in G.S. 105-
14 330. The registration fee for a motor vehicle whose registration
15 cycle is changed under this subsection shall be reduced by a
16 prorated amount. The prorated amount is one-twelfth of the
17 registration fee in effect when the motor vehicle's registration
18 was last renewed multiplied by the number of full months
19 remaining in the motor vehicle's current registration cycle,
20 rounded to the nearest multiple of twenty-five cents (25¢)."

21

**** EXPLANATION ****

This section makes two administrative changes and two technical changes in staggered vehicle registrations. The administrative changes allow the Division to stagger the registration of any type of vehicle and allow staggered registrations to expire at the end of any periodic basis composed of one or more months. The technical changes eliminate subsections (d) and (e); subsection (d) is inaccurate and is replaced by the new language in (g), and Section 8 of this bill incorporates subsection (e) in amended G.S. 20-95. Registration plates, as opposed to renewal stickers, are all calendar-year plates and are not staggered.

Current law restricts staggered registration to the following vehicles: motorcycles, private passenger vehicles. U-drive-it passenger vehicles, property-hauling vehicles licensed for 4,000 pounds gross weight, vehicles registered under the International Registration Plan (IRP), and trailers. The Division currently renews the registration of all of these types of vehicles by sticker except those registered under the IRP and is planning to implement staggered IRP registration in 1995.

The Division's plan for staggered IRP registration contemplates staggering the registrations on a quarterly as opposed to a monthly basis because this schedule best accommodates the IRP vehicle owners. Current law, however, requires all staggered renewals to be done on a monthly basis so that an approximately equal number of vehicle registrations expire at the end of each month. This section removes the monthly limitation and allows the Division to stagger registrations for IRP vehicles and any other vehicles on a periodic basis. The Division is best able to determine the period that will spread the work out evenly.

*** * * ***

22 Sec. 6. Section 343 of Chapter 539 of the 1993 Session
23 Laws is repealed.

**** EXPLANATION ****

Former G.S. 20-79(a) had a misdemeanor violation that was changed by Chapter 539 to fit in with structured sentencing. Chapter 440 of the 1993 Session Laws (S162), however, deleted the offense as part of the rewrite of

G.S. 20-79, which addresses dealer license plates. If the section is not repealed, the words "Class 2 misdemeanor" will be hanging at the end of 20-79(a).

* * * *

Sec. 7. G.S. 20-88.1 is amended by adding a new subsection to read:

"(d) The Division shall prepare a driver license handbook that explains the traffic laws of the State and shall periodically revise the handbook to reflect changes in these laws. At the request of the Department of Education, the Division shall provide free copies of the handbook to that Department for use in the program of driver education offered at public high schools."

**** EXPLANATION ****

This section consolidates Article 6 of Chapter 20 with G.S. 20-88.1 so that all the provisions concerning the public school driver education program are in the same place. All of Article 6 is obsolete except the requirement that the Division prepare a driver license handbook for use in the public schools. Section 19 of this act repeals Article 6.

* * * *

Sec. 8. G.S. 20-95 reads as rewritten:

"§ 20-95. Licenses Prorated fee for license plate issued for less other than a year.

(a) Calendar-Year Plate. -- Except as provided in subsection (b) of this section, licenses The fee for a calendar-year license plate issued on or after April 1 and before July 1 of each a year shall be three fourths of the annual fee; licenses issued on or after July 1 and before October 1 shall be one half of the annual fee; and licenses issued on or after October 1 shall be one fourth of the annual fee. is a percentage of the annual fee determined in accordance with the following table:

<u>Date Plate Issued</u>	<u>Percentage of Annual Fee</u>
<u>April 1 through June 30</u>	<u>75%</u>
<u>July 1 through September 30</u>	<u>50</u>
<u>October 1 through December 31</u>	<u>25.</u>

(al) Plate With Renewal Sticker. -- The fee for a license plate whose registration is renewed by means of a registration renewal sticker for a period of other than 12 months is a prorated amount of the annual fee. The prorated amount is one-twelfth of the annual fee multiplied by the number of full months in the period beginning the date the renewal sticker becomes effective until the date the renewal sticker expires, rounded to the nearest multiple of twenty-five cents (25¢).

1 (b) Scope. -- This section does not apply to license plates
2 issued pursuant to G.S. 20-79.1, 20-79.2, 20-84, 20-84.1,
3 20-87(9) or (10), and 20-88(c)."

**** EXPLANATION ****

This section incorporates current G.S. 20-66(e) as subsection (a1) so that the provisions for prorated registration fees are in the same place in the statutes, and it rewrites subsection (a) to make it clear that it applies only to calendar-year plates. It does not change the amount of fees payable or the time the fees are payable.

* * * *

4 Sec. 9. G.S. 20-97(a), as rewritten by Section 1.1 of
5 Chapter 456 of the 1993 Session Laws, reads as rewritten:
6 "(a) All taxes levied under the provisions of this Article are
7 intended as compensatory taxes for the use and privileges of the
8 public highways of this State, and shall be paid by the
9 Commissioner to the State Treasurer, to be credited by him to the
10 State Highway Fund; and no county or ~~municipality, other than~~
11 ~~Alleghany County,~~ municipality shall levy any license or
12 privilege tax upon any motor vehicle licensed by the State of
13 North Carolina, except that cities and towns may levy not more
14 than five dollars (\$5.00) per year upon any vehicle ~~resident,~~
15 resident therein, and except that Alleghany County may levy not
16 more than ten dollars (\$10.00) per year upon any vehicle
17 ~~resident, resident therein.~~ Provided, further, that cities and
18 towns may levy, in addition to the amounts hereinabove provided
19 for, a sum not to exceed fifteen dollars (\$15.00) per year upon
20 each vehicle operated in such city or town as a taxicab."

**** EXPLANATION ****

This section corrects a redlining error made in Section 1.1, of Chapter 456 of the 1993 Session Laws. That act is a local act that applies only to Alleghany County. The word "therein" was omitted in two places and the exception for Alleghany County was inserted twice.

* * * *

21
22 Sec. 10. G.S. 20-118(c)(1) reads as rewritten:

23 "(1) Two consecutive sets of tandem axles may carry a
24 gross weight of 34,000 pounds each without penalty
25 provided the overall distance between the first and
26 last axles of such the consecutive sets of tandem
27 axles is 36 feet or more. ~~Tank trailers, dump~~
28 ~~trailers, and ocean going transport containers on~~
29 ~~two consecutive sets of tandem axles may carry a~~
30 ~~gross weight of 34,000 pounds each without penalty~~
31 ~~provided the overall distance between the second~~

1 ~~and the fifth axles of such consecutive sets of~~
2 ~~tandem axles is 30 feet or more. The exception for~~
3 ~~tank trailers, dump trailers, and ocean transport~~
4 ~~containers shall expire August 31, 1988."~~

**** EXPLANATION ****

This section repeals a weight exemption that expired August 31, 1988.

5
6 Sec. 11. G.S. 20-118(c)(5), as amended by Chapter 426
7 of the 1993 Session Laws, reads as rewritten:

8 (5) ~~A truck or other motor vehicle shall be exempt from~~
9 ~~such~~ The light-traffic road limitations provided
10 for pursuant to G.S. 20-118(b)(4), when
11 transporting processed and subdivision (b)(4) of
12 this section do not apply to a vehicle while that
13 vehicle is transporting only the following from its
14 point of origin on a light-traffic road to the
15 nearest highway that is not a light-traffic road:

16 a. Processed or unprocessed seafood from boats or
17 any other point of origin, meats and origin to
18 a processing plant or a point of further
19 distribution.

20 b. Meats or agricultural crop products
21 originating from a farm, or farm to first
22 market.

23 c. Unprocessed forest products originating from a
24 farm or from woodlands, or livestock woodlands
25 to first market.

26 d. Livestock or poultry from their point of
27 origin to first market.

28 e. Livestock by-products or poultry by-products
29 from their point of origin, or recyclable
30 origin to a rendering plant.

31 f. Recyclable material from its point of origin
32 to a scrap-processing facility for processing.
33 As used in this subpart, the terms
34 'recyclable' and 'processing' have the same
35 meaning as in G.S. 130A-290(a).

36 g. Garbage collected by the vehicle from
37 residences or garbage dumpsters if the vehicle
38 is fully enclosed and is designed specifically
39 for collecting, compacting, and hauling
40 garbage from residences or from garbage

1 dumpsters. As used in this subpart, the term
2 'garbage' does not include hazardous waste as
3 defined in G.S. 130A-290(a), spent nuclear
4 fuel regulated under G.S. 20-167.1, low-level
5 radioactive waste as defined in G.S. 104E-5,
6 or radioactive material as defined in G.S.
7 104E-5.

8 ~~material for processing from the point of origin on~~
9 ~~a light-traffic road to the nearest State~~
10 ~~maintained road which is not posted to prohibit the~~
11 ~~transportation of statutory load limits. As used~~
12 ~~in this subdivision, "processing" has the same~~
13 ~~meaning as defined in G.S. 130A-290(a)(23) and~~
14 ~~"recyclable material" has the same meaning as~~
15 ~~defined in G.S. 130A-290(a)(26)."~~
16

**** EXPLANATION ****

This section makes several technical changes. First, it restricts the application of the definition of "processing" to recyclable materials, thereby eliminating confusion. The terms "processed" and "unprocessed" are used in this subdivision in a way that is contrary to the added definition of "processing," which was intended to apply only to recyclable material. Second, the section clarifies that forest products must be unprocessed forest products. Section 11 of Chapter 543 of the 1993 Session Laws made a similar change in the reduced penalty provisions for forest products.

Third, the section rewrites the exemptions to make them easier to understand. As part of the rewrite, the section incorporates current G.S. 20-118(c)(9) as subpart g. without changing its substance. This subdivision is incorporated here so that the half-rate penalties in 20-118(e)(2) and (e)(4) can be described by cross reference rather than needless repetition. The rewrite also makes it clear that the exemption for "livestock or poultry by-products" includes livestock, livestock by-products, poultry, and poultry by-products.

*** * * ***

17
18 **Sec. 12. G.S. 20-118(c)(9) is repealed.**

**** EXPLANATION ****

Section 11 of this bill incorporates this subdivision. This section therefore repeals it so it does not appear twice in the statutes.

*** * * ***

19
20 **Sec. 13. G.S. 20-118(c)(12), as enacted by Chapter 470**
21 **of the 1993 Session Laws, reads as rewritten:**

22 **"(12) A Subsections (b) and (e) of this section do not**
23 **apply to a vehicle that meets one of the following**
24 **descriptions and descriptions, is hauling**
25 **agricultural crops within 35 miles of from the**
26 **farm where they were grown: grown to first market,**

is within 35 miles of that farm, and does not exceed its registered weight:

- a. Has Is a five-axle combination with a gross weight of no more than 88,000 pounds, a single axle single-axle weight of no more than 22,000 pounds, and a tandem-axle tandem-axle weight of no more than 42,000 pounds, pounds, and a length of at least 51 feet between the first and last axles of the combination.
- b. ~~Is a five-axle combination with a gross weight of no more than 88,000 pounds.~~
- c. Is a four-axle combination with a tandem-axle gross weight that does not exceed the limit set in subdivision (b)(3) of this section, a single-axle weight of no more than 22,000 pounds, and a tandem-axle weight of no more than 42,000 pounds."

**** EXPLANATION ****

This section corrects several drafting errors and clarifies that the exemption does not permit the vehicle to exceed its registered weight or the gross weight limits. Specifically, it makes the exception fit into the statute by adding the lead-in phrase, it inserts the missing word "no", it merges a. and b. because, in reality, the vehicles described in subpart a. are five-axle combinations, and it inserts the appropriate hyphens. This exemption was added by Chapter 470 of the 1993 Session Laws, effective July 23, 1993.

* * * *

Sec. 14. G.S. 20-118(e), as amended by Chapters 426 and 533 of the 1993 Session Laws, reads as rewritten:

(e) Penalties. --

- (1) Except as provided in subdivision (2) of this subsection, for each violation of the single-axle or tandem-axle weight limits set in subdivision (b)(1), (b)(2), or (b)(4) of this section, the Department of Transportation shall assess a civil penalty against the owner or registrant of the vehicle in accordance with the following schedule: for the first 1,000 pounds or any part thereof, four cents (4¢) per pound; for the next 1,000 pounds or any part thereof, six cents (6¢) per pound; and for each additional pound, ten cents (10¢) per pound. These penalties apply separately to each weight limit violated. In all cases of violation of the weight limitation, the penalty

shall be computed and assessed on each pound of weight in excess of the maximum permitted.

- (2) ~~For The penalty for a violation of the single-axle or tandem-axle weight limits set in subdivision (b)(1) or (b)(2) of this section by a motor vehicle that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (1) of this subsection. processed or unprocessed seafood from boats or any other point of origin to a processing plant or a point of further distribution, meats or agricultural crop products originating from a farm to first market, unprocessed forest products originating from a farm or from woodlands to first market, or livestock or poultry by-products from their point of origin to a rendering plant, recyclable material for processing from a point of origin to a scrap-processing facility, or that is fully enclosed, is designed specifically for collecting, compacting, and hauling garbage from residences or from garbage dumpsters, and is being operated for that purpose, the Department of Transportation shall assess a civil penalty against the owner or registrant of the vehicle equal to the amount produced by applying one-half of the rate indicated in the schedule in subdivision (1) of this subsection to the weight in pounds on each axle in excess of the maximum weight in pounds allowed. As used in this subdivision, "processing" has the same meaning as defined in G.S. 130A-290(a)(23) and "recyclable material" has the same meaning as defined in G.S. 130A-290(a)(26).~~

- (3) Except as provided in subdivision (4) of this subsection, for a violation of an axle-group weight limit set in subdivision (b)(3) of this section, the Department of Transportation shall assess a civil penalty against the owner or registrant of the motor vehicle in accordance with the following schedule: for the first 2,000 pounds or any part thereof, two cents (2¢) per pound; for the next 3,000 pounds or any part thereof, four cents (4¢) per pound; for each pound in excess of

5,000 pounds, ten cents (10¢) per pound. These penalties apply separately to each axle-group weight limit violated. The penalty shall be assessed on each pound of weight in excess of the maximum permitted.

(4) ~~For The penalty for a violation of any an axle-group weight limit set in subdivision (b)(3) of this section by a motor vehicle described in subdivision (2) of this subsection, the Department of Transportation shall assess a civil penalty against the owner or registrant of the motor vehicle equal to the amount produced by applying one-half of the rate indicated in the schedule in subdivision (3) of this subsection to the weight in pounds on each axle group in excess of the maximum weight in pounds allowed, recyclable material for processing from point of origin to a scrap-processing facility, As used in this subdivision, "processing" has the same meaning as defined in G.S.130A-290(a)(23) and "recyclable material" has the same meaning as defined in G.S. 130A-290(a)(26). that is transporting an item listed in subdivision (c)(5) of this section is one-half of the amount it would otherwise be under subdivision (3) of this subsection.~~

(5) ~~The civil penalties provided in this section shall constitute the sole penalty for violations of the weight limits in this section and violators thereof shall not be subject to criminal action except as provided in G.S. 20-96 and as provided in G.S. 136-72 for any vehicle or combination of vehicles exceeding the safe load carrying capacity for bridges on the State Highway System as established and posted by the Department of Transportation. A violation of a weight limit in this section is not punishable under G.S. 20-176."~~

**** EXPLANATION ****

This section corrects confusion created by the overlap of two acts passed in the 1993 Session and makes other technical changes. Chapter 426 of the 1993 Session Laws gave vehicles hauling certain recyclable materials a one-half rate on the weight penalties (single-axle, tandem-axle, axle-group, and light-traffic road). Section 11 of Chapter 533 of the 1993 Session Laws made technical changes to the subsection that did not take into account the changes made by Chapter 426. When combined, the two acts left incomplete sentences in the subsection.

This section corrects the problem by eliminating the repetition of the list of vehicles to which the preferential rates apply. Rather than list the half-rate vehicles in three places, this section cross-references the list under (c)(5)(light-traffic roads). By deleting the unnecessary repetition, the bill also eliminates the problem created by the definition of processing, discussed in the explanation to Section 11 of this bill.

* * * *

1
2 Sec. 15. G.S. 20-118(f) is repealed.

**** EXPLANATION ****

This subsection unnecessarily duplicates several other statutes. Passenger buses, as for-hire carriers, are required to register with the Division under Article 17 of Chapter 20. Passenger buses pay vehicle registration fees under 20-87(1) based in part on weight. The Commissioner does not, as this statute implies, issue a special license to a passenger bus.

* * * *

3 Sec. 16. G.S. 20-118(i) is repealed.

**** EXPLANATION ****

Part of this subsection expired October 1, 1988, and the remainder expired October 1, 1993. The subsection is therefore obsolete.

* * * *

4
5 Sec. 17. G.S. 20-174.1(b) reads as rewritten:

6 ~~"(b) Any person convicted of violating this section shall be~~
7 ~~punished by a fine not exceeding five hundred dollars (\$500.00)~~
8 ~~or by imprisonment not exceeding six months, or both, in the~~
9 ~~discretion of the court. Violation of this section is a Class 2~~
10 ~~misdemeanor."~~

**** EXPLANATION ****

This section fits the offense of standing, sitting, or lying upon a street or highway into the structured sentencing classification of misdemeanors. It makes a violation a Class 2 misdemeanor. The punishment range for a Class 2 misdemeanor is as follows: 1-30 days community punishment for prior conviction level I, 1-45 days community punishment or intermediate punishment for prior conviction level II, and 1-60 days community, intermediate, or active punishment for prior conviction level III.

* * * *

11
12 Sec. 18. G.S. 20-193 is repealed.

**** EXPLANATION ****

This statute has been superseded by G.S. 7A-304 and is therefore unnecessary; to the extent it conflicts with G.S. 7A-304, it creates confusion. G.S. 20-193 requires fees for arrests and service of process that arise from the work of the Highway Patrol and are included in court costs to be remitted to the general fund of the county where the court taxing the costs is located. G.S. 7A-304, which is part of Article 28, Uniform Costs and Fees in

the Trial Divisions, directs these fees to be remitted to the county where the arrest was made or process was served.

* * * *

1
2 Sec. 19. Article 6 of Chapter 20 of the General
3 Statutes is repealed.

**** EXPLANATION ****

Most of this Article, which is titled "Giving Publicity to Highway Traffic Laws through the Public Schools" is obsolete. For example, it instructs the Department of Transportation to give each public high school teacher a digest of the traffic laws by August 1, 1927. Section 7 of this act incorporates into G.S. 20-88.1, the statute that describes the public school driver education program, the requirement that the Division of Motor Vehicles give the Department of Education copies of the digest for use in the driver education program.

* * * *

4 Sec. 20. G.S. 20-218, as amended by Chapter 217 of the
5 1993 Session Laws, reads as rewritten:

6 "§ 20-218. Standard qualifications for school bus drivers; speed
7 limit, limit for school buses and school activity buses.

8 (a) Qualifications. -- No person shall drive a school bus over
9 the highways or public vehicular areas of North Carolina while it
10 is occupied by children unless the person furnishes to the
11 superintendent of the schools of the county in which the bus
12 shall be operated a certificate from any representative duly
13 designated by the Commissioner and from the Director of
14 Transportation or a designee of the Director in charge of school
15 buses in the county showing that the person has been examined by
16 them and is fit and competent to drive a school bus over the
17 highways and public vehicular areas of the State. The driver of
18 a school bus must be at least 18 years of age and hold a Class A,
19 B, or C commercial drivers license and a school bus driver's
20 certificate. The driver of a school activity bus must meet the
21 same qualifications as a school bus driver or must have a license
22 appropriate for the class of vehicle being driven.

23 (b) Speed Limits. -- ~~It shall be unlawful for any person to~~
24 ~~operate or drive a school bus loaded with children over the~~
25 ~~highways or public vehicular areas of North Carolina the State at~~
26 ~~a greater rate of speed than 45 miles per hour, except for school~~
27 ~~activity buses which are painted a different color from regular~~
28 ~~school buses and which are being used for transportation of~~
29 ~~students or others to or from places for participation in events~~
30 ~~other than regular classroom work, it shall be hour. It is~~
31 ~~unlawful to operate such~~ drive a school activity bus loaded with

1 children over the highways or public vehicular areas of North
2 Carolina at a greater rate of speed than 55 miles per hour.
3 (c) ~~Punishment. -- Any person violating this section shall,~~
4 ~~upon conviction, be fined not more than fifty dollars (\$50.00) or~~
5 ~~imprisoned for not more than 30 days. A person who violates this~~
6 ~~section commits a Class 3 misdemeanor."~~

**** EXPLANATION ****

This section makes two changes. First, it rewrites subsection (b) of the section so that the subsection is grammatical. Chapter 217 of the 1993 Session Laws rewrote (b) when it increased the speed limit from 35 to 45 miles an hour but made the subsection one long, ungrammatical sentence. Second, it fits the punishment for a violation into the structured sentencing scheme. A Class 3 misdemeanor is the lowest misdemeanor. The punishment range is as follows: 1-10 days community punishment for prior conviction level I; 1-15 days community punishment or intermediate punishment for prior conviction level II, and 1-20 days community punishment, intermediate punishment, or active punishment for prior conviction level III. Whenever a community punishment is authorized, the judgment may consist of a fine only. The amount of the fine is in the discretion of the court but may not exceed \$200.

7 Sec. 21. G.S. 20-218.1 is repealed.

**** EXPLANATION ****

This statute defines "school bus" and "school activity bus" to include its private and parochial counterparts but does not provide a good definition of school bus. The definitions are stated to apply throughout Chapter 20. The definitions need to be improved and moved to G.S. 20-4.01, which contains the definitions that apply throughout Chapter 20. This section repeals G.S. 20-218.1 because the next section of this bill improves the definitions and moves them to G.S. 20-4.01.

8
9 Sec. 22. G.S. 20-4.01(27) is amended by adding two new
10 subparts to read:

11 "d3. School activity bus. -- A vehicle, generally
12 painted a different color from a school bus,
13 whose primary purpose is to transport school
14 students and others to or from a place for
15 participation in an event other than regular
16 classroom work. The term includes a public,
17 private, or parochial vehicle that meets this
18 description.

19 d4. School bus. -- A vehicle whose primary purpose
20 is to transport school students over an
21 established route to and from school for the
22 regularly scheduled school day, that is
23 equipped with alternately flashing red lights
24 on the front and rear and a mechanical stop

1 signal, and that bears the words "School Bus"
2 on the front and rear in letters at least 8
3 inches in height. The term includes a public,
4 private, or parochial vehicle that meets this
5 description."

**** EXPLANATION ****

This section moves the substance of G.S. 20-218.1 to the appropriate statute. The previous section of this bill repeals 20-218.1.

* * * *

6 Sec. 23. G.S. 20-218.2 reads as rewritten:

7 "\$ 20-218.2. Speed limit for ~~activity buses for nonprofit~~
8 ~~purpose, nonprofit activity buses.~~

9 It shall be is unlawful for any person to operate to drive an
10 activity bus for that is owned by a nonprofit organization for a
11 nonprofit purpose which is being used for transportation of and
12 is transporting persons in connection with nonprofit activities
13 in excess of over the highways or public vehicular areas of North
14 Carolina at a greater rate of speed than 55 miles per hour. A
15 person who violates this section commits a Class 3 misdemeanor.

16 Any person violating this section shall, upon conviction, be
17 finned not more than fifty dollars (\$50.00) or imprisoned for not
18 more than 30 days."

**** EXPLANATION ****

This section fits the punishment for a violation into the structured sentencing scheme and changes the wording of the statute slightly so that it parallels G.S. 20-218. A Class 3 misdemeanor is the lowest misdemeanor. The punishment range is as follows: 1-10 days community punishment for prior conviction level I; 1-15 days community punishment or intermediate punishment for prior conviction level II, and 1-20 days community punishment, intermediate punishment, or active punishment for prior conviction level III. Whenever a community punishment is authorized, the judgment may consist of a fine only. The amount of the fine is in the discretion of the court but may not exceed \$200.

* * * *

19 Sec. 24. G.S. 20-219 is repealed.

**** EXPLANATION ****

The statute repealed by this section appears to authorize payment from the Highway Fund to a county for court costs in criminal automobile theft cases. The statute is not used and is superseded by Article 28 of Chapter 7A of the General Statutes, which addresses court costs.

* * * *

20 Sec. 25. Article 8A of Chapter 20 of the General
21 Statutes is repealed.

22

**** EXPLANATION ****

This Article has only one statute, G.S. 20-231.1, which became obsolete in 1982. The statute is therefore cluttering the laws with unnecessary provisions.

* * * *

- 1 Sec. 26. G.S. 20-279.7A reads as rewritten:
2 "§ 20-279.7A. Forms to carry statement concerning perjury.
3 The Division of Motor Vehicles shall print on all forms
4 provided to drivers covered by G.S. 20-279.5, 20-279.6, or
5 20-279.7 that a A person who makes a false affidavit or falsely
6 sworn or affirmed statement constitutes perjury and may be
7 punished by imprisonment for up to 10 years or a fine or both,
8 concerning information required to be submitted under this
9 Article commits a Class I felony. The Division shall include a
10 statement of this offense on a form that it provides under this
11 Article and that must be completed under oath."
12

**** EXPLANATION ****

This section fits the current perjury offense in this statute into the structured sentencing scheme and makes the punishment for this type of perjury the same as other perjuries under Chapter 20. Perjuries under G.S. 20-31, Article 2 of Chapter 20, and G.S. 20-112, Article 3 of Chapter 20, were reclassified by Chapter 539 of the 1993 Session Laws as Class I felonies. That Chapter failed to make a similar change to this statute. This section corrects that oversight.

* * * *

- 13 Sec. 27. G.S. 20-279.34 is repealed.

**** EXPLANATION ****

This section is obsolete. It establishes the assigned risk plan that was replaced in 1973 with the Reinsurance Facility in Article 37 of Chapter 58 of the General Statutes.

* * * *

- 14 Sec. 28. G.S. 20-309.1 is repealed.

**** EXPLANATION ****

This statute, which specifies that 18 year-olds are competent to contract for automobile insurance, is obsolete. It was enacted when a minor was considered to be a person under 21 rather than a person under 18.

* * * *

- 15 Sec. 29. G.S. 20-310 is repealed.

**** EXPLANATION ****

Much of this section is obsolete. The relevant portions are transferred by the next section of this bill to Article 36 of Chapter 58 of the General Statutes.

* * * *

Sec. 30. Article 36 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-36-85. Termination of a nonfleet private passenger motor vehicle insurance policy.

(a) Definitions. The following definitions apply in this section:

(1) Policy. -- A nonfleet private passenger motor vehicle liability insurance policy, including a policy that provides medical payments, uninsured motorist, or underinsured motorist coverage.

(2) Terminate. -- To cancel or refuse to renew a policy.

(b) Termination Restrictions. -- An insurer shall not terminate a policy for a reason that is not specified in G.S. 58-37-50(1) through (5) or G.S. 58-36-65(g). A termination of a policy is not effective unless the insurer either has notified a named insured of the termination by sending a written termination notice by first class mail to the insured's last known address or is not required by this subsection to send a written termination notice. Proof of mailing of a written termination notice is proof that the notice was sent.

An insurer is not required to send a written termination notice if any of the following applies:

(1) The insurer has manifested its willingness to renew the policy by issuing or offering to issue a renewal policy, a certificate, or other evidence of renewal.

(2) The insurer has manifested its willingness to renew the policy by any means not described in subdivision (1) of this subsection, including mailing a premium notice or expiration notice by first class mail to the named insured and the failure of the insured to pay the required premium on or before the premium due date.

(3) A named insured has given written notification to the insurer or its agent that the named insured wants the policy to be terminated.

(c) Contents of Notice. -- The form of a written termination notice used by an insurer must be approved by the Commissioner before it is used. A written termination notice must state the reason for the termination and the date the termination is effective. If the policy is terminated for nonpayment of the premium, the effective date may be 15 days from the date the notice is mailed. If the policy is terminated for any other

1 reason, the effective date must be at least 60 days after the
2 notice is mailed. A written termination notice must include or
3 be accompanied by a statement that advises the insured of the
4 penalty for driving a vehicle without complying with Article 13
5 of Chapter 20 of the General Statutes and that the insured has
6 the right to request the Department to review the termination.

7 (d) Request For Review. -- An insured who receives from an
8 insurer a written termination notice may obtain review of the
9 termination by filing with the Department a written request for
10 review within 10 days after receiving a termination notice that
11 complies with subsection (c) of this section. An insured who
12 does not file a request within the required time waives the right
13 to a review.

14 (e) Administrative Review. -- When the Department receives a
15 written request to review a termination, it must investigate and
16 determine the reason for the termination. The Department shall
17 enter an order for one of the following upon completing its
18 review:

- 19 (1) Approval of the termination, if it finds the
20 termination complies with the law.
- 21 (2) Renewal or reinstatement of the policy, if it finds
22 the termination does not comply with the law.
- 23 (3) Renewal or reinstatement of the policy and payment
24 by the insurer of the costs of the Department's
25 review, not to exceed one thousand dollars
26 (\$1,000), if it finds the termination does not
27 comply with the law and the insurer willfully
28 violated this section.

29 The Department shall mail a copy of the order to the insured
30 and the insurer. An insured or an insurer who disagrees with the
31 determination of the Department may file a petition for a
32 contested case under Article 3A of Chapter 150B of the General
33 Statutes and the rules adopted by the Commissioner to implement
34 that Article. The petition must be filed within 30 days after
35 receiving the copy of the order.

36 (f) Delegation. -- The Commissioner shall designate an
37 employee or a deputy to conduct the departmental review of a
38 termination. The Commissioner may designate a deputy to conduct
39 a contested case hearing concerning a termination. The
40 Commissioner may not designate a deputy who conducted the
41 departmental review of a termination to conduct a contested case
42 hearing concerning the same termination.

- 1 (g) Effect of Review On Policy. -- A policy shall remain in
2 effect during administrative and judicial review of an insurer's
3 action to terminate the policy.
4 (h) Liability Limit. -- There is no liability on the part of
5 and no cause of action for defamation or invasion of privacy
6 arises against an insurer, an insurer's authorized
7 representatives, agents, or employees, or a licensed insurance
8 agent or broker for a communication or statement made concerning
9 a written notice of termination.
10 (i) Records. -- An insurer shall keep a record of a termination
11 for three years."

**** EXPLANATION ****

This section transfers to the insurance laws the portion of G.S. 20-310 that is not obsolete and makes technical changes. The technical changes conform the administrative review of a termination of an insurance policy to the Administrative Procedure Act, Chapter 150B of the General Statutes, and clarify the limitation on liability contained in subsection (h).

* * * *

- 12 Sec. 31. G.S. 20-310.2 is repealed.

**** EXPLANATION ****

This statute is obsolete. It is superseded by Article 36 of Chapter 58 of the General Statutes, which states the reasons why an insurance company can refuse to issue an automobile insurance policy. Age is not one of the permissible reasons.

* * * *

- 13 Sec. 32. The title to Article 12E of Chapter 120 of the
14 General Statutes reads as rewritten:
15 "ARTICLE 12E
16 Joint Legislative ~~Highway~~ Transportation Oversight Committee."

**** EXPLANATION ****

Section 169.2 of Chapter 321 of the 1993 Session Laws changed the name of the Joint Legislative Highway Oversight Committee to the Joint Transportation Oversight Committee. That act failed to make a conforming change to the title of the Article that creates the committee. This section makes the needed conforming change.

* * * *

- 17 Sec. 33. Section 1 of this act becomes effective
18 October 1, 1994, and applies to offenses occurring on or after
19 that date. Sections 2 through 4, 17, 20, 23, and 26 of this act
20 become effective the same date that Chapter 539 of the 1993
21 Session Laws becomes effective and apply to offenses committed on
22 or after the effective date of Chapter 539; prosecutions for, or
23 sentences based on, offenses occurring before the effective date
24 of Chapter 539 are not abated or affected by these sections.

1 Sections 29 through 31 of this act become effective October 1,
2 1994, and apply to policies with inception or renewal dates on or
3 after that date. The remaining sections of this act are
4 effective upon ratification.

5

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

D

Proposal 3 (94d-RWZ-220)

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Liability Insurance Proof Change. (Public)

Sponsors: Representatives R. Hunter, Bowen, Bowie, Grady,
McAllister, McLaughlin, and Robinson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE REQUIREMENT OF PROOF OF FINANCIAL
RESPONSIBILITY UPON RENEWAL OF A DRIVERS LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(f) reads as rewritten:

"(f) A drivers license expires on the birthday of the licensee
in the fourth year following the year of issuance; and no new
license shall be issued to any operator after the expiration of
his license until such operator has again passed the examination
specified in this section. Any operator may at any time within 60
days prior to the expiration of his license apply for a new
license and if the applicant meets the requirements of this
Chapter, the Division shall issue a new license to him. A new
license issued within 60 days prior to the expiration of an
applicant's old license or within 12 months thereafter shall
automatically expire four years from the date of the expiration
of the applicant's old license.

Any person serving in the armed forces of the United States on
active duty and holding a valid drivers license properly issued
under this section and stationed outside the State of North

1 Carolina may renew his license by making application to the
2 Division by mail. Any other person, except a nonresident as
3 defined in this Article, who holds a valid drivers license issued
4 under this section and who is temporarily residing outside North
5 Carolina, may also renew by making application to the Division by
6 mail. For purposes of this section "temporarily" shall mean not
7 less than 30 days continuous absence from North Carolina. In
8 either case, the Division may waive the examination and color
9 photograph ordinarily required for the renewal of a drivers
10 license, and may impose in lieu thereof such conditions as it may
11 deem appropriate to each particular application; provided that
12 such license shall expire 30 days after the licensee returns to
13 North Carolina, and such license shall be designated as
14 temporary.

15 Provided further, that no person who applies for the renewal of
16 a drivers license shall be required to take a written examination
17 or road test as a part of any such examination unless such person
18 has been convicted of a traffic violation or had prayer for
19 judgment continued with respect to any traffic violation within a
20 four-year period immediately preceding the date of such person's
21 renewal application or unless such person suffers from a mental
22 or physical condition which impairs his ability to operate a
23 motor vehicle.

24 Provided further, that no person who applies for the renewal of
25 his drivers license ~~and who must take the written examination~~
26 ~~pursuant to this section shall be issued a renewed license unless~~
27 ~~such person has furnished the~~ required to furnish proof of
28 financial responsibility specified in subsection (c1).

29 Sec. 2. G.S. 20-7(c1), as amended by Chapter 368 of the
30 1993 Session Laws, reads as rewritten:

31 "(c1) Insurance. -- The Division may not issue a drivers
32 license to a person until the person has furnished proof of
33 financial responsibility. Proof of financial responsibility shall
34 be in one of the following forms:

35 (1) A written certificate or electronically-transmitted
36 facsimile thereof from any insurance carrier duly
37 authorized to do business in this State certifying
38 that there is in effect a nonfleet private
39 passenger motor vehicle liability policy for the
40 benefit of the person required to furnish proof of

financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

- (2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the license application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection, the term "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner.

The requirement of furnishing proof of financial responsibility does not apply to a person who applies for a renewal of ~~his his~~ or her drivers license and who is not required to take the ~~written examination.~~ license.

Nothing in this subsection precludes any person from showing proof of financial responsibility in any other manner authorized by Articles 9A and 13 of this Chapter."

1 Sec. 3. Section 1 of this act becomes effective October
2 1, 1994 and expires December 31, 1994. Section 2 of this act
3 becomes effective January 1, 1995. Section 3 of this act is
4 effective upon ratification.

Explanation of Proposal 3

ELIMINATE PROOF OF INSURANCE UPON RENEWAL OF A DRIVERS LICENSE

At the January 5, 1994 meeting of the Committee, the Division of Motor Vehicles (DMV) proposed elimination of the current requirement that proof of insurance be shown when obtaining a drivers license. These requirements were originally added by Chapter 869 of the 1987 Session Laws. At its February 2, 1994 meeting, the Committee heard DMV's proposal, as well as concerns expressed by the insurance industry about the effect of the proposal. The Co-Chairs instructed Committee staff to meet with DMV and representatives of the Department of Insurance and the insurance industry in an attempt to work out a compromise position on this issue. As directed, Committee staff met with representatives of DMV, the Department of Insurance, and the insurance industry. Based on these discussions, staff prepared a draft bill that reflected items of agreement between the affected parties. The draft bill was presented to the Committee at its April 6, 1994 meeting, and was approved with a change to the effective date.

The proposed bill amends G.S. 20-7 to eliminate the requirement that persons who are renewing their drivers license and who must take the written examination show proof of insurance, effective October 1, 1994. Since G.S. 20-7 was previously rewritten and reorganized effective January 1, 1995, Section 1 of the bill amends current G.S. 20-7(f) effective October 1, to December 31, 1994, and Section 2 of the bill amends new G.S. 20-7(c1) effective January 1, 1995. This bill is expected to eliminate 230,000 persons a year from the requirement to obtain a DL-123 form from their insurance company in order to show proof of liability insurance to DMV. This bill makes no change to current requirements that persons show proof of liability insurance before initial issuance or restoration of a drivers license, or before the granting of a limited driving privilege (after conviction of excessive speeding or an impaired driving offense).

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1993

S

D

Proposal 4 (94d-RWZ-219)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Billboard Compensation Extended (Public)

Sponsors: Senators Lee, Hoyle, Marshall, Martin of Pitt,
Plexico, Simpson, Smith, and Speed.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE EXPIRATION OF THE REQUIREMENT THAT JUST
COMPENSATION BE PAID FOR THE REMOVAL BY LOCAL AUTHORITIES OF
BILLBOARDS ON INTERSTATE AND FEDERAL-AID PRIMARY HIGHWAYS, AS
REQUIRED BY FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 1147 of the 1981
Session Laws, as amended by Chapter 318 of the 1983 Session Laws,
and by Chapter 1024 of the 1987 Session Laws, and by Section 2 of
Chapter 166 of the 1989 Session Laws reads as rewritten:

"Sec. 2. This act is effective upon ratification, but shall
expire ~~June 30, 1994~~ June 30, 1998 and shall have no force or
effect after that date."

Sec. 2. This act is effective upon ratification.

Explanation of Proposal 4

EXTEND REQUIREMENT THAT JUST COMPENSATION BE PAID FOR REMOVAL BY LOCAL AUTHORITIES OF BILLBOARDS ON INTERSTATE AND FEDERAL-AID PRIMARY HIGHWAYS, AS REQUIRED BY FEDERAL LAW

In 1978, Congress amended the Federal Highway Beautification Act to require just compensation for removal by local governments of billboards lawfully erected under State law adjacent to an Interstate or Federal-aid primary highway [23 U.S.C. 131(g)].

To comply with this federal directive, and avoid a potential loss of 10% of the State's federal highway funds, in 1982 the General Assembly enacted G.S. 136-131.1. This statute prohibits local governments from removing billboards lawfully erected under State law and adjacent to an interstate or federal-aid primary highway without the payment of just compensation.

G.S. 136-131.1 was originally given a sunset date of June 30, 1984, apparently in case the federal law was subsequently repealed. The federal law remained in effect, and G.S. 136-131.1 was, as a result, extended to June 30, 1988, and then to June 30, 1990, and finally to June 30, 1994.

At its April 6, 1994 meeting, the Committee approved a proposal by the Department of Transportation to extend the sunset date. The proposed bill would extend the sunset date of G.S. 136-131.1 to June 30, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

D

Proposal 5 (93-LJZ-30V2)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Uniform License & Registration Info. (Public)

Sponsors: Senators Lee, Hoyle, Marshall, Martin of Pitt,
Plexico, Simpson, Smith, and Speed.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR UNIFORM DRIVERS LICENSE AND VEHICLE
3 REGISTRATION INFORMATION.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-7 reads as rewritten:
6 "§ 20-7. Issuance and renewal of drivers licenses.
7 (a) License Required. -- To drive a motor vehicle on a
8 highway, a person must be licensed by the Division under this
9 Article or Article 2C of this Chapter to drive ~~that vehicle.~~ the
10 vehicle and must carry the license while driving the vehicle. The
11 Division issues regular drivers licenses under this Article and
12 issues commercial drivers licenses under Article 2C.
13 A license authorizes the holder of the license to drive any
14 vehicle included in the class of the license and any vehicle
15 included in a lesser class of license, except a vehicle for which
16 an endorsement is required. To drive a vehicle for which an
17 endorsement is required, a person must obtain both a license and
18 an endorsement for the vehicle. A regular drivers license is
19 considered a lesser class of license than its commercial
20 counterpart.
21 The classes of regular drivers licenses and the motor vehicles
22 that can be driven with each class of license are:

- (1) Class A. -- A Class A license authorizes the holder to drive any of the following:
- a. A Class A motor vehicle that is exempt under G.S. 20-37.16 from the commercial drivers license requirements.
 - b. A Class A motor vehicle that has a combined GVWR of less than 26,001 pounds and includes as part of the combination a towed unit that has a GVWR of at least 10,001 pounds.
- (2) Class B. -- A Class B license authorizes the holder to drive any Class B motor vehicle that is exempt under G.S. 20-37.16 from the commercial drivers license requirements.
- (3) Class C. -- A Class C license authorizes the holder to drive any of the following:
- a. A Class C motor vehicle that is not a commercial motor vehicle.
 - b. When operated by a volunteer member of a fire department, a rescue squad, or an emergency medical service (EMS) in the performance of duty, a Class A or Class B fire-fighting, rescue, or EMS motor vehicle or a combination of these vehicles.

The Commissioner may assign a unique motor vehicle to a class that is different from the class in which it would otherwise belong.

A new resident of North Carolina who has a drivers license issued by another jurisdiction must obtain a license from the Division within 30 days after becoming a resident.

(a1) Motorcycles and Mopeds. -- To drive a motorcycle, a person must have a drivers license and a motorcycle endorsement. To obtain a motorcycle endorsement, a person must demonstrate competence to drive a motorcycle by passing a road test and a written or oral test concerning a motorcycle and must pay the fee for a motorcycle endorsement. Neither a drivers license nor a motorcycle endorsement is required to drive a moped.

(b) Repealed by Session Laws 1993, c. 368, s. 1, c. 533, s. 12, effective January 1, 1995.

~~(c) (b1) Application and Tests. Application.~~ -- To obtain a drivers license from the Division, a person must complete an application form provided by the Division, present at least two forms of identification approved by the Commissioner, be a resident of this State, and demonstrate his or her physical and mental ability to drive safely a motor vehicle included in the

1 class of license for which the person has applied. The Division
2 may copy the identification presented or hold it for a brief
3 period of time to verify its ~~authenticity. To authenticity. To~~
4 obtain an endorsement, a person must demonstrate his or her
5 physical and mental ability to drive safely the type of motor
6 vehicle for which the endorsement is required. ~~The Division shall~~
7 ~~note an endorsement on the face of a drivers license.~~

8 The application form must request all of the following
9 information and may request other information the Division
10 considers necessary:

- 11 (1) The applicant's full name.
- 12 (2) The applicant's mailing address and residence
13 address.
- 14 (3) A physical description of the applicant, including
15 the applicant's sex, height, eye color, and hair
16 color.
- 17 (4) The applicant's date of birth.
- 18 (5) The applicant's social security number.
- 19 (6) The applicant's signature.

20 The application form must also contain the disclosures concerning
21 the request for an applicant's social security number required by
22 Section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-579.

23 (c) Tests. -- To demonstrate physical and mental ability, a
24 person must pass an examination. The examination may include
25 road tests, vision tests, oral tests, and, in the case of
26 literate applicants, written tests, as the Division may require.
27 The tests must ensure that an applicant recognizes the
28 handicapped international symbol of access, as defined in G.S.
29 20-37.5. The Division may not require a person who applies to
30 renew a license that has not expired to take a written test or a
31 road test unless one or more of the following applies:

- 32 (1) The person has been convicted of a traffic
33 violation since the person's license was last
34 issued.
- 35 (2) The applicant suffers from a mental or physical
36 condition that impairs the person's ability to
37 drive a motor vehicle.

38 The Division may not require a person who is at least 60 years
39 old to parallel park a motor vehicle as part of a road test.

40 (c1) Insurance. -- The Division may not issue a drivers license
41 to a person until the person has furnished proof of financial
42 responsibility. Proof of financial responsibility shall be in one
43 of the following forms:

(1) A written certificate or electronically-transmitted facsimile thereof from any insurance carrier duly authorized to do business in this State certifying that there is in effect a nonfleet private passenger motor vehicle liability policy for the benefit of the person required to furnish proof of financial responsibility. The certificate or facsimile shall state the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy and shall state the date that the certificate or facsimile is issued. The certificate or facsimile shall remain effective proof of financial responsibility for a period of 30 consecutive days following the date the certificate or facsimile is issued but shall not in and of itself constitute a binder or policy of insurance.

(2) A binder for or policy of nonfleet private passenger motor vehicle liability insurance under which the applicant is insured, provided that the binder or policy states the effective date and expiration date of the nonfleet private passenger motor vehicle liability policy.

The preceding provisions of this subsection do not apply to applicants who do not own currently registered motor vehicles and who do not operate nonfleet private passenger motor vehicles that are owned by other persons and that are not insured under commercial motor vehicle liability insurance policies. In such cases, the applicant shall sign a written certificate to that effect. Such certificate shall be furnished by the Division and may be incorporated into the license application form. Any material misrepresentation made by such person on such certificate shall be grounds for suspension of that person's license for a period of 90 days.

For the purpose of this subsection, the term "nonfleet private passenger motor vehicle" has the definition ascribed to it in Article 40 of General Statute Chapter 58.

The Commissioner may require that certificates required by this subsection be on a form approved by the Commissioner.

The requirement of furnishing proof of financial responsibility does not apply to a person who applies for a renewal of his drivers license and who is not required to take the written examination.

1 Nothing in this subsection precludes any person from showing
2 proof of financial responsibility in any other manner authorized
3 by Articles 9A and 13 of this Chapter.

4 (d) Repealed by Session Laws 1993, c. 368, s. 1, effective
5 January 1, 1995.

6 (e) Restrictions. -- The Division may impose any restriction
7 it finds advisable on a drivers license. ~~A restriction shall be~~
8 ~~noted on the face of the license.~~ It is unlawful for the holder
9 of a restricted license to operate a motor vehicle without
10 complying with the restriction and is the equivalent of operating
11 a motor vehicle without a license. If any applicant shall suffer
12 from any physical defect or disease which affects his or her
13 operation of a motor vehicle, the Division may require to be
14 filed with it a certificate of such applicant's condition signed
15 by some medical authority of the applicant's community designated
16 by the Division. This certificate shall in all cases be treated
17 as confidential. Nothing in this subsection shall be construed
18 to prevent the Division from refusing to issue a license, either
19 restricted or unrestricted, to any person deemed to be incapable
20 of safely operating a motor vehicle. This subsection does not
21 prohibit deaf persons from operating motor vehicles who in every
22 other way meet the requirements of this section.

23 (f) Expiration and Temporary License. -- The first drivers
24 license the Division issues to a person expires on the person's
25 fourth or subsequent birthday that occurs after the license is
26 issued and on which the individual's age is evenly divisible by
27 five, unless this subsection sets a different expiration date.
28 The first drivers license the Division issues to a person who is
29 at least 17 years old but is less than 18 years old expires on
30 the person's twentieth birthday. The first drivers license the
31 Division issues to a person who is at least 62 years old expires
32 on the person's birthday in the fifth year after the license is
33 issued, whether or not the person's age on that birthday is
34 evenly divisible by five.

35 A drivers license that was issued by the Division and is
36 renewed by the Division expires five years after the expiration
37 date of the license that is renewed. A person may apply to the
38 Division to renew a license during the 60-day period before the
39 license expires. The Division may not accept an application for
40 renewal made before the 60-day period begins.

41 Any person serving in the armed forces of the United States on
42 active duty and holding a valid drivers license properly issued
43 under this section and stationed outside the State of North
44 Carolina may renew the license by making application to the

1 Division by mail. Any other person, except a nonresident, who
2 holds a valid drivers license issued under this section and who
3 is temporarily residing outside North Carolina, may also renew by
4 making application to the Division by mail. For purposes of this
5 section "temporarily" shall mean not less than 30 days continuous
6 absence from North Carolina. In either case, the Division may
7 waive the examination and color photograph otherwise required for
8 the renewal of a drivers license, and may impose in lieu thereof
9 any conditions it considers appropriate to each particular
10 application. A license renewed by mail is a temporary license
11 that expires 30 days after the person to whom it is issued
12 returns to this State.

13 (g) Repealed by Session Laws 1979, c. 667, s. 6.

14 (h) Repealed by Session Laws 1979, c. 113, s. 1.

15 (i) Fees. -- The fee for a regular drivers license is the
16 amount set in the following table multiplied by the number of
17 years in the period for which the license is issued:

19 <u>Class of Regular License</u>	<u>Fee For Each Year</u>
21 Class A	\$ 3.75
22 Class B	3.75
23 Class C	2.50

25 The fee for a motorcycle endorsement is one dollar and twenty-
26 five cents (\$1.25) for each year of the period for which the
27 endorsement is issued. The appropriate fee must be paid before a
28 person receives a regular drivers license or an endorsement.

29 (il) Restoration Fee. -- Any person whose drivers license has
30 been revoked pursuant to the provisions of this Chapter, other
31 than G.S. 20-17(2), shall pay a restoration fee of twenty-five
32 dollars (\$25.00). A person whose drivers license has been
33 revoked under G.S. 20-17(2) shall pay a restoration fee of fifty
34 dollars (\$50.00) until the end of the fiscal year in which the
35 cumulative total amount of fees deposited under this subsection
36 in the General Fund exceeds five million dollars (\$5,000,000),
37 and shall pay a restoration fee of twenty-five dollars (\$25.00)
38 thereafter. The fee shall be paid to the Division prior to the
39 issuance to such person of a new drivers license or the
40 restoration of the drivers license. The restoration fee shall be
41 paid to the Division in addition to any and all fees which may be
42 provided by law. This restoration fee shall not be required from
43 any licensee whose license was revoked or voluntarily surrendered
44 for medical or health reasons whether or not a medical evaluation

1 was conducted pursuant to this Chapter. The twenty-five dollar
2 (\$25.00) fee, and the first twenty-five dollars (\$25.00) of the
3 fifty-dollar (\$50.00) fee, shall be deposited in the Highway
4 Fund. The remaining twenty-five dollars (\$25.00) of the fifty-
5 dollar (\$50.00) fee shall be deposited in the General Fund of the
6 State. The Office of State Budget and Management shall certify
7 to the Department of Transportation and the General Assembly when
8 the cumulative total amount of fees deposited in the General Fund
9 under this subsection exceeds five million dollars (\$5,000,000),
10 and shall annually report to the General Assembly the amount of
11 fees deposited in the General Fund under this subsection.

12 It is the intent of the General Assembly to annually
13 appropriate the funds deposited in the General Fund under this
14 subsection to the Board of Governors of The University of North
15 Carolina to be used for the Center for Alcohol Studies Endowment
16 at The University of North Carolina at Chapel Hill, but not to
17 exceed this cumulative total of five million dollars
18 (\$5,000,000).

19 (j) Highway Fund. -- The fees collected under this section and
20 G.S. 20-14 shall be placed in the Highway Fund.

21 (k) Repealed by Session Laws 1991, c. 726, s. 5, effective
22 October 1, 1991.

23 (l) Learner's Permit. -- Any person who except for lack of
24 instruction in operating a motor vehicle would be qualified to
25 obtain a drivers license under this Article may obtain a
26 learner's permit. A learner's permit authorizes the permit
27 holder to drive a specified type or class of motor vehicle while
28 in possession of the permit. A learner's permit is valid for a
29 period of 18 months after it is issued. The fee for a learner's
30 permit is ten dollars (\$10.00). A learner's permit may be
31 renewed, or a second learner's permit may be issued, for an
32 additional period of 18 months. The permit holder must, while
33 operating a motor vehicle over the highways, be accompanied by a
34 person who is licensed to operate the motor vehicle being driven
35 and is seated beside the permit holder.

36 (l-1) Repealed by Session Laws 1991, c. 726, s. 5, effective
37 October 1, 1991.

38 (m) Instruction Permit. -- The Division upon receiving proper
39 application may in its discretion issue a restricted instruction
40 permit effective for a school year or a lesser period to any of
41 the following applicants:

42 (1) An applicant who is less than 18 years old and is
43 enrolled in a drivers education program that is
44 approved by the State Superintendent of Public

Instruction and is offered at a public high school, a nonpublic secondary school, or a licensed drivers training school.

- (2) An applicant for certification under G.S. 20-218 as a school bus driver.

A restricted instruction permit authorizes the holder of the permit to drive a specified type or class of motor vehicle when in possession of the permit, subject to any restrictions imposed by the Division. The restrictions the Division may impose on a permit include restrictions to designated areas and highways and restrictions prohibiting operation except when an approved instructor is occupying a seat beside the permittee. A restricted instruction permit is not required to have a distinguishing number or a picture of the person to whom the permit is issued.

(n) ~~Format. -- Every A drivers license issued by the Division shall bear thereon the distinguishing number assigned to the licensee and color photograph of the licensee of a size approved by the Commissioner and shall contain the name, age, residence address and a brief description of the licensee, who, for the purpose of identification and as a condition precedent to the validity of the license, immediately upon receipt thereof, shall endorse his or her regular signature in ink upon the same in the space provided for that purpose unless a facsimile of his or her signature appears thereon; provided the must be designed to be tamper proof, must contain all of the following information, and may contain other information the Commissioner considers necessary:~~

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph of the license holder, taken by the Division.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) The license holder's social security number or another identifying number assigned by the Division.
- (8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.
- (9) The license holder's signature.

(10) The date the license was issued and the date the license expires.

The Commissioner may waive the requirement that of a color photograph of the licensee appear on the a license may be waived by the Commissioner upon satisfactory proof if the license holder proves to the satisfaction of the Commissioner that the taking of such the photograph violates would violate the license holder's religious convictions of the licensee. Drivers licenses shall be issued with differing color photographic backgrounds according to the licensee's age at time of issuance for the following age groups:

(1) Persons who have not attained the age of 21 years.

(2) Persons who have attained the age of 21 years.

convictions. In taking photographs of license holders, the Division must distinguish between license holders who are less than 21 years old and license holders who are at least 21 years old by using different color backgrounds for each group. The Division shall determine the different colors to be used. Such license shall be carried by the licensee at all times while engaged in the operation of a motor vehicle.

(c) Repealed by Session Laws 1991, c. 726, s. 5, effective October 1, 1991."

Sec. 2. G.S. 20-37.7 reads as rewritten:

"§ 20-37.7. Special identification card.

(a) Eligibility. -- The Division of Motor Vehicles shall upon satisfactory proof of identification issue a special identification card to any person 11 years or older who is a resident of the State of North Carolina. A person who is a resident of this State, is at least 11 years old, and does not have a drivers license is eligible for a special identification card.

(b) Application. -- Every application for a special identification card shall be made on the approved form furnished by the Division and shall be accompanied by a birth certificate and other proof of identification which shall be returned when the special identification card is issued. To obtain a special identification card from the Division, a person must complete the application form used to obtain a drivers license.

(c) Format. -- Special A special identification cards shall be issued with differing color photographic backgrounds according to the holder's age at time of issuance for the following age groups:

(1) Persons who have not attained the age of 21 years.

(2) Persons who have attained the age of 21 years.

1 The card shall be similar in size, shape, and design to a
2 ~~driver's~~ drivers license, but shall clearly state that it does
3 not entitle the person to whom it is issued to operate a motor
4 vehicle. A special identification card issued to an applicant
5 must have the same background color that a drivers license issued
6 to the applicant would have.

7 (d) Expiration and Fee. -- A special identification card
8 issued to a person for the first time under this section expires
9 when a drivers license issued on the same day to that person
10 would expire. A special identification card renewed under this
11 section expires when a drivers license renewed by the card holder
12 on the same day would expire.

13 The fee for a special identification card is the same as the
14 fee set in G.S. 20-14 for a duplicate license. The fee does not
15 apply to a special identification card issued to a resident of
16 this State who is legally blind, is at least 70 years old, or is
17 homeless. To obtain a special identification card without paying
18 a fee, a homeless person must present a letter to the Division
19 from the director of a facility that provides care or shelter to
20 homeless persons verifying that the person is homeless.

21 (e) Offense. -- Any fraud or misrepresentation in the
22 application for or use of a special identification card issued
23 under this section is a Class 2 misdemeanor.

24 (f) Records. -- ~~The Division of Motor Vehicles shall maintain~~
25 ~~a record of all recipients of a special identification card. The~~
26 ~~Division may promulgate any rules and regulations it deems~~
27 ~~necessary for the effective implementation of the provisions of~~
28 ~~this section.~~

29 (g) No State Liability. -- The fact of issuance of a special
30 identification card pursuant to this section shall not place upon
31 the State of North Carolina or any agency thereof any liability
32 for the misuse thereof and the acceptance thereof as valid
33 identification is a matter left entirely to the discretion of any
34 person to whom such card is presented.

35 (h) Advertising. -- The Division may utilize the various
36 communications media throughout the State to inform North
37 Carolina residents of the provisions of this section."

38 Sec. 3. G.S. 20-37.15(a) reads as rewritten:

39 "(a) ~~The application for a commercial drivers license must~~
40 ~~include the following:~~

- 41 ~~(1) The full name, current mailing address, and current~~
42 ~~residence address of the applicant;~~
43 ~~(2) A physical description of the person including sex,~~
44 ~~height, and eye and hair color;~~

- ~~(3) Date of birth;~~
- ~~(4) The applicant's social security number;~~
- ~~(5) The applicant's signature;~~
- ~~(6) Repealed by Session Laws 1991, c. 726, s. 17.~~
- ~~(7) Certifications including those required by 49 C.F.R. § 383.71(a);~~
- ~~(8) A consent to release driving record information; and~~
- ~~(9) Any other information required by the Division.~~

An application for a commercial drivers license must include the information required by G.S. 20-7 for a regular drivers license and a consent to release driving record information."

Sec. 4. G.S. 20-37.16(a) reads as rewritten:

(a) A commercial drivers license must be marked "Commercial Drivers License" or "CDL" and shall, to the maximum extent practicable, be tamper proof. It must include:

- ~~(1) The person's name and residential address;~~
- ~~(2) The person's color photograph;~~
- ~~(3) A physical description of the person including sex, height, eye color, and hair color;~~
- ~~(4) The person's date of birth;~~
- ~~(5) The person's social security number or any number or identifier deemed appropriate by the Division;~~
- ~~(6) The person's signature;~~
- ~~(7) The class of commercial motor vehicle or vehicles which the person is authorized to drive together with any endorsements or restrictions;~~
- ~~(8) The name of this State; and~~
- ~~(9) The dates between which the license is valid.~~

"CDL" and must contain the information required by G.S. 20-7 for a regular drivers license."

Sec. 5. G.S. 20-52(a) reads as rewritten:

(a) ~~Every~~ An owner of a vehicle subject to registration hereunder shall make application to the Division for the registration thereof and issuance of must apply to the Division for a certificate of title for such vehicle upon the appropriate form or forms furnished by the Division, and every such application shall bear the signature of the owner written with pen and ink, and said signature shall be acknowledged by the owner before a person authorized to administer oaths, and said application shall contain: title, a registration plate, and a registration card for the vehicle. To apply, an owner must complete an application form provided by the Division. The application form must request all of the following information

- 1 and may request other information the Division considers
2 necessary:
- 3 (1) ~~The name, bona fide residence and mail address of~~
4 ~~the owner or business address of the owner if a~~
5 ~~firm, association or corporation; owner's name.~~
- 6 (1a) If the owner is an individual, the following
7 information:
8 a. The owner's mailing address and residence
9 address.
10 b. The owner's social security number.
- 11 (1b) If the owner is a firm, a partnership, a
12 corporation, or another entity, the address of the
13 entity.
- 14 (2) A description of the vehicle, including, insofar as
15 the hereinafter specified data may exist with
16 respect to a given vehicle, the including the
17 following:
18 a. The make, model, type of body, the serial
19 number of the vehicle, the engine and other
20 identifying numbers of the vehicle and whether
21 and vehicle identification number of the
22 vehicle.
23 b. Whether the vehicle is new or used, and used
24 and, if a new vehicle, the date of sale and
25 actual date of delivery of vehicle by the
26 manufacturer or dealer to the person intending
27 to operate such vehicle; the manufacturer or
28 dealer sold the vehicle to the owner and the
29 date the manufacturer or dealer delivered the
30 vehicle to the owner.
- 31 (3) A statement of the applicant's owner's title and of
32 all liens upon the vehicle, including the names and
33 addresses of all lienholders in the order of their
34 priority, and the date and nature of each lien;
35 lien.
- 36 (4) Such further information as may reasonably be
37 required by the Division to enable it to determine
38 whether the vehicle is lawfully entitled to
39 registration and the owner entitled to a
40 certificate of title.
- 41 The application form must contain the disclosures concerning the
42 request for an applicant's social security number required by
43 Section 7 of the federal Privacy Act of 1974, Pub. L. No. 93-
44 579."

1 Sec. 6. This act becomes effective January 1, 1995.

Explanation of Proposal 5

UNIFORM LICENSE AND REGISTRATION INFORMATION

Proposal 5 enables the Division of Motor Vehicles (DMV) of the Department of Transportation to use the social security number of an individual as the identifying number for that individual in the drivers license records, the vehicle registration records, and the special identification card records of the Division. It does this by requiring an individual who applies for a drivers license, the registration of a vehicle, or a special identification card to include the individual's social security number on the application. The proposal also authorizes but does not require DMV to use a social security number as the drivers license number that is printed on a drivers license. The changes become effective January 1, 1995.

DMV is in the process of establishing a new computer system for its drivers license, special ID, and vehicle registration records. Use of a unique social security number will enable DMV to cross-check information in these data bases. Currently, the drivers license and vehicle registration data bases do not use common identifiers and, consequently, cannot be used to cross-check information.

Under current law, an applicant for a regular drivers license, a special ID card, or a vehicle registration is not required to provide a social security number. An applicant for a commercial drivers license is required to provide a social security number. Approximately 33 states use social security numbers for identification in drivers license records.

The proposal requires an application for a drivers license, a special ID card, or a vehicle registration to contain the disclosures concerning social security numbers that are required by federal law. Section 7 of the federal Privacy Act of 1974 (Pub. L. 93-579) requires a state that requests an individual to disclose his or her social security account number to inform the individual whether the disclosure is mandatory or voluntary, the statutory or other authority by which the number is requested, and the use that will be made of the number. That section also prohibits a state from denying a benefit to an individual based on the individual's failure to provide a social security number when requested to do so unless the request is required by "Federal statute" or is one of the pre-1975 grandfathered disclosures. The federal statutes, at 42 U.S.C. 405(c)(2)(C)(i), declare that it is the policy of the United States to allow a state to use social security numbers in the administration of any "tax, general public assistance, driver's license, or motor vehicle registration law..for the purpose of establishing the identification of individuals affected by such law."

Thus, federal law authorizes a state to deny a drivers license or vehicle registration to an individual based on the individual's failure to provide a social security number. An application for a license or vehicle registration, however, must contain a statement that the disclosure is mandatory, cite the appropriate statute, and state that the number will be used as the

EXPLANATION OF PROPOSAL 5 (Continued)

identifying number of the individual for drivers license or vehicle registration purposes, as appropriate. The federal law does not specifically refer to special identification cards. North Carolina considers these cards as part of its drivers license as a form of official identification. Thus, the same exceptions that apply to drivers licenses also apply to special ID cards.

In adding the requirement of providing a social security number when applying for a drivers license, a special ID card, or a vehicle registration, the proposal makes numerous technical changes. These changes are the reason why the bill is lengthy. The changes consolidate the application requirements for a license into one place in G.S. 20-7, delete duplicative application requirements from the special ID statute and the commercial drivers license statute, and consolidate the requirements for the kinds of information a drivers license must contain. The requirement that a person carry his or her drivers license when operating a vehicle is moved from G.S. 20-7(n) to G.S. 20-7(a). The requirement that an endorsement or restriction be noted on the face of a drivers license is moved from G.S. 20-7(c) and (e), respectively, to G.S. 20-7(n). The proposal makes no changes in the information required to obtain a drivers license, a special ID card, or a vehicle registration other than the requirement of providing a social security number.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

D

Proposal 6 (93-LJZ-28(V4))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Single State Insurance Registration. (Public)

Sponsors: Representatives McLaughlin, Bowen, Bowie, Grady, R. Hunter, McAllister, and Robinson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO COMPLY WITH FEDERAL LAW BY REVISING THE BINGO STAMP METHOD OF ENSURING THAT FOR-HIRE VEHICLES OPERATED IN THIS STATE IN INTERSTATE COMMERCE ARE INSURED AND TO MAKE TECHNICAL CHANGES TO THE MOTOR CARRIER LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-382 reads as rewritten:

"§ 20-382. Interstate carriers. Registration of for-hire interstate motor carriers and verification that their vehicles are insured.

(a) Registration. -- This Article shall apply to persons and vehicles engaged in interstate commerce over the highways of this State, except insofar as the provisions of this Article may be inconsistent with, or shall contravene, the Constitution or laws of the United States, and the Division may, in its discretion, require such carriers to file with it copies of their respective interstate authority or register their exempt operation and registration of their vehicles operated in the State, and to observe such reasonable rules and regulations as the Division may deem advisable in the administration of this Article and for the protection of persons and property upon the highways of the State. A motor carrier may not operate a for-hire motor vehicle

1 in interstate commerce in this State unless the motor carrier has
2 complied with all of the following requirements:

3 (1) Registered its operations with the Division by
4 doing one of the following:

5 a. Filing a copy of the certificate of authority
6 issued to it by the Interstate Commerce
7 Commission allowing it to operate in this
8 State and any amendments to that authority.

9 b. Certifying to the Division that it carries
10 only items that are not regulated by the
11 Interstate Commerce Commission.

12 (2) Verified, in accordance with subsection (b) or (c)
13 of this section, that it has insurance for each
14 for-hire motor vehicle it operates.

15 (3) Paid the fees set in G.S. 20-385.

16 (b) Insurance Verification For ICC-Regulated Motor Carriers.

17 ~~-- The Division or its authorized representative is authorized~~
18 ~~to confer with and to hold joint hearings with the authorities of~~
19 ~~other states or with the Interstate Commerce Commission or its~~
20 ~~representatives, or any other federal or State agency in~~
21 ~~connection with any matter arising under this Chapter, or under~~
22 ~~the Federal Motor Carrier Act, or under any other federal law~~
23 ~~which may directly or indirectly affect the interests of the~~
24 ~~people of this State or the policy declared by this Chapter or by~~
25 ~~the Interstate Commerce Act. A motor carrier that operates a for-~~
26 ~~hire motor vehicle in interstate commerce in this State, is~~
27 ~~regulated by the Interstate Commerce Commission, and designates~~
28 ~~this State as its registration state must obtain a receipt from~~
29 ~~the Division verifying that each for-hire motor vehicle the motor~~
30 ~~carrier operates in any jurisdiction is insured. To obtain a~~
31 ~~receipt, the motor carrier must apply annually to the Division~~
32 ~~during the application period and state the number of for-hire~~
33 ~~motor vehicles the motor carrier intends to operate in each~~
34 ~~jurisdiction during the next calendar year. The certificate of~~
35 ~~authority issued to the motor carrier by the Interstate Commerce~~
36 ~~Commission is proof that the motor carrier has insurance for its~~
37 ~~for-hire motor vehicles.~~

38 The motor carrier must keep a copy of the receipt in each of
39 its for-hire motor vehicles. The motor carrier may transfer the
40 receipt from one for-hire motor vehicle to another as long as the
41 total number of for-hire motor vehicles operated in any
42 jurisdiction and in all jurisdictions does not exceed the number
43 stated on the receipt.

1 A motor carrier may operate more for-hire motor vehicles in a
2 jurisdiction than stated in its most recent annual application
3 only if the motor carrier files another application with the
4 Division and obtains a receipt stating the increased number. A
5 motor carrier that obtains a receipt for an increased number of
6 for-hire motor vehicles must put a copy of the new receipt in
7 each of its for-hire motor vehicles. The new receipt replaces
8 rather than supplements the previous receipt.

9 (c) Insurance Verification For Non-Regulated Motor Carriers.
10 -- Any person operating a for-hire motor vehicle in interstate
11 commerce over the highways of this State without having properly
12 registered with the Division its respective exempt operation or a
13 copy of its interstate authority and each vehicle operated in
14 this State shall be subject to a penalty of seventy-five dollars
15 (\$75.00), which shall be added to the registration fees provided
16 in G.S. 20-385 and said penalty shall be collected with said
17 registration fee from any carrier operating on the highways of
18 North Carolina without registering his interstate authority by
19 inspectors and officers of the Division in accordance with rules
20 and regulations duly adopted by the Division before said vehicle
21 shall be permitted to operate further upon the highways of North
22 Carolina. A motor carrier that operates a for-hire motor vehicle
23 in interstate commerce in this State and is exempt from
24 regulation by the Interstate Commerce Commission must verify to
25 the Division that each for-hire motor vehicle the motor carrier
26 operates in this State is insured. To do this, the motor carrier
27 must obtain annually for each for-hire motor vehicle a cab card
28 approved by the Commissioner and a North Carolina identification
29 stamp issued by the Division. To obtain an identification stamp,
30 the motor carrier must apply annually to the Division during the
31 application period for an identification stamp for each for-hire
32 motor vehicle the motor carrier intends to operate in this State
33 during the next twelve-month period beginning February 1.

34 The motor carrier must place the identification stamp on the
35 cab card and keep the cab card in the for-hire motor vehicle for
36 which it was issued. An identification stamp is issued for a
37 specific for-hire motor vehicle and is not transferable from one
38 for-hire motor vehicle to another.

39 A motor carrier may operate in this State a for-hire motor
40 vehicle for which it did not obtain an identification stamp
41 during the most recent annual application period only if it
42 obtains for that vehicle either a cab card and identification
43 stamp or an emergency permit. A motor carrier may obtain an
44 additional identification stamp after the close of the annual

1 application period by filing an application for it with the
2 Division. An identification stamp issued after the close of the
3 annual application period expires the same date as one issued
4 during the annual application period.

5 A motor carrier may obtain an emergency permit by filing an
6 application for it with the Division. An emergency permit allows
7 the motor carrier to operate a for-hire motor vehicle in this
8 State without a cab card and identification stamp between the
9 time the motor carrier has applied for an identification stamp
10 and the time the Division issues the identification stamp.

11 ~~(d) No motor carrier, whether operating as a regulated carrier
12 or exempt for-hire carrier, shall operate or cause to be
13 operated in interstate commerce in this State any vehicle until
14 he has filed evidence of required insurance with the Division and
15 has been issued an identification stamp for such vehicle, which
16 stamp must be attached to the approved uniform cab card and
17 carried in the vehicle at all times. The identification stamp
18 herein provided for shall be issued on an annual basis as of
19 January 1st each year and shall be valid through February 1st the
20 next succeeding year. When any person is discovered in this
21 State, operating a vehicle in violation of this section, it shall
22 be unlawful for anyone thereafter to operate said vehicle on the
23 streets or highways of this State, except to remove it from the
24 street or highway for purposes of parking or storing said vehicle
25 until he shall pay to the Division a penalty of seventy-five
26 dollars (\$75.00). No court of the State shall entertain a suit of
27 any kind brought for the purpose of preventing the collection of
28 any penalty imposed in this section. Whenever a person shall have
29 a valid defense to the enforcement of the collection of a penalty
30 assessed or charged against him, such person shall pay such
31 penalty to the proper officer, and notify such officer in writing
32 that he pays the same under protest. Such payment shall be
33 without prejudice to any defense or rights he may have in the
34 premises, and he may, at any time within 30 days after such
35 payment, demand the same in writing from the Commissioner of
36 Motor Vehicles; and if same shall not be refunded within 90 days
37 thereafter, may sue such official in the courts of the State for
38 the amount so demanded. Such suit must be brought in the Superior
39 Court of Wake County, or in the county in which the person paying
40 the penalty resides. No restraining order or injunction shall
41 issue from any court of the State to restrain or enjoin the
42 collection of the penalty or to permit the operation of said
43 vehicle without payment of the penalty prescribed herein."~~

Sec. 2. Part 2 of Article 17 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-382.1. Registration of for-hire intrastate motor carriers and verification that their vehicles are insured.

(a) Registration. -- A motor carrier may not operate a for-hire motor vehicle in intrastate commerce in this State unless the motor carrier has complied with all of the following requirements:

(1) Registered its operations with the State by doing one of the following:

a. Obtaining a certificate or a permit from the North Carolina Utilities Commission, if the motor carrier hauls regulated items.

b. Obtaining a certificate of exemption from the Division, if the motor carrier hauls only items that are not regulated by the North Carolina Utilities Commission.

(2) Verified, in accordance with subsection (b) of this section, that it has insurance for each for-hire motor vehicle it operates in this State.

(3) Paid the fees set in G.S. 20-385.

(b) Insurance Verification. -- A motor carrier that operates a for-hire vehicle in intrastate commerce in this State must verify to the Division that each for-hire motor vehicle it operates in this State is insured. To do this, the motor carrier must submit an insurance verification form to the Division and must file annually with the Division a list of the for-hire vehicles it operates in this State."

Sec. 3. Part 2 of Article 17 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-382.2. Penalty for failure to comply with registration or insurance verification requirements.

(a) Acts. -- A motor carrier who does any of the following is subject to a civil penalty of seventy-five dollars (\$75.00):

(1) Operates a for-hire motor vehicle in this State without registering its operations, as required by this Part.

(2) Operates a for-hire motor vehicle in interstate commerce in this State that does not carry a copy of either an insurance registration receipt issued to the motor carrier or a cab card with an identification stamp issued for the vehicle, as required by G.S. 20-382.

(3) Operates a for-hire motor vehicle in intrastate commerce in this State for which it has not verified it has insurance, as required by G.S. 20-382.1.

(b) Payment. -- When the Division finds that a for-hire motor vehicle is operated in this State in violation of the registration and insurance verification requirements of this Part, the motor vehicle may not be driven for a purpose other than to park the motor vehicle until the penalty imposed under this section is paid unless the officer that imposes the penalty determines that operation of the motor vehicle will not jeopardize collection of the penalty. A motor carrier that denies liability for a penalty imposed under this section may pay the penalty under protest and apply to the Division for a hearing.

(c) Hearing. -- Upon receiving a request for a hearing, the Commissioner must schedule a hearing within 30 days after receipt of the request. If after the hearing the Commissioner determines that the motor carrier was not liable for the penalty, the amount collected must be refunded. If after the hearing the Commissioner determines that the motor carrier was liable for the penalty, the motor carrier may bring an action in the Superior Court of Wake County against the Division for refund of the penalty. A court of this State may not issue a restraining order or an injunction to restrain or enjoin the collection of the penalty or to permit the operation of the vehicle without payment of the penalty.

(d) Proceeds. -- A penalty imposed under this section is payable to the Division. Penalties collected under this section shall be credited to the Highway Fund as nontax revenue."

Sec. 4. G.S. 20-385 reads as rewritten:

"§ 20-385. ~~Particular fees and charges fixed; payment. Fee schedule.~~

(a) Amounts. -- ~~The Divisions shall receive and collect the following fees and charges:~~

(1) ~~One dollar (\$1.00) for the registration with the Division of each motor vehicle to be put in operation by a motor carrier operating under the jurisdiction of the North Carolina Utilities Commission, and a fee of one dollar (\$1.00) for the annual reregistration of each such motor vehicle.~~

(2) ~~Twenty-five dollars (\$25.00) for the filing with the Division of the interstate motor carrier operating authority or registration of interstate~~

~~exempt operation of every motor carrier operating into, from, within, or through North Carolina and filed with the Division under the provisions of G.S. 20-382 and five dollars (\$5.00) for filing all subsequent amendments thereto to maintain said filing in a current status.~~

~~(3) One dollar (\$1.00) for the registration with the Division of each motor vehicle operated into, from, within, or through North Carolina by interstate carriers and registered with the Division under the provisions of G.S. 20-382, and a fee of one dollar (\$1.00) for the annual reregistration of each such motor vehicle.~~

~~(4) Twenty-five dollars (\$25.00) for each Certificate of Exemption issued by the Division.~~

~~(5) Ten dollars (\$10.00) for each emergency permit issued by the Division in accordance with G.S. 20-382.~~

(1)	<u>Verification by a for-hire motor carrier of insurance for each for-hire motor vehicle operated in this State.....</u>	<u>\$1.00</u>
(2)	<u>Application by an intrastate motor carrier for a certificate of exemption</u>	<u>25.00</u>
(3)	<u>Certification by an interstate motor carrier that it is not regulated by the ICC</u>	<u>25.00</u>
(4)	<u>Application by an interstate motor carrier for an emergency permit</u>	<u>10.00.</u>

(b) Reciprocal Agreements. -- The fee set in subdivision (a)(1) of this section does not apply to the verification of insurance by an interstate motor carrier regulated by the Interstate Commerce Commission if the Division had a reciprocal agreement on November 15, 1991, with another state by which no fee is imposed. The Division had reciprocal agreements as of that date with the following states: California, Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

Sec. 5. G.S. 20-376(3), (6), (10), (11), (12), (17), (18), (20), and (22) are repealed.

Sec. 6. This act is effective upon ratification.

Explanation of Proposal 6

SINGLE STATE INSURANCE REGISTRATION

Proposal 6 conforms the State law concerning the registration of certain interstate for-hire motor carriers to the requirements of federal law, clarifies the registration requirements that apply to intrastate for-hire motor carriers, and makes technical changes to the motor carrier registration laws. The changes are effective upon ratification.

The Intermodal Surface Transportation Act of 1991 amended 49 U.S.C. § 11506 by directing the federal Interstate Commerce Commission (ICC) to adopt regulations requiring states to implement a single-state registration system for interstate for-hire motor carriers that are regulated by the ICC. The ICC accordingly revised 49 C.F.R. Part 1023 to make the mandated changes. As revised, 49 C.F.R. Part 1023 required states to eliminate the bingo stamp method of registering ICC-regulated for-hire interstate motor carriers by December 31, 1993, and replace it with a single-state registration system that is similar to other multi-state registration systems such as the International Registration Plan and the International Fuel Tax Agreement.

The Division of Motor Vehicles of the Department of Transportation complied with the new federal law and, effective with the 1994 calendar year, switched to the single-state registration system. The North Carolina statutes, however, have not been changed and, therefore, conflict with both federal law and administrative practice. Sections 1 and 4 of this proposal rewrite the appropriate statutes to resolve these conflicts.

Section 1 establishes the single-state registration method for for-hire motor carriers that are regulated by the ICC and retains the bingo stamp method for interstate motor carriers that are not regulated by the ICC. The difference in these two methods is described below.

Section 4 revises the fee schedule for registration of interstate for-hire motor carriers to eliminate fees the State is prohibited by federal law from collecting. Federal law prohibits a state from collecting a fee from an ICC-regulated interstate for-hire motor carrier for filing with the State a copy of the carrier's ICC certificate of authority or an amendment to that certificate. Accordingly, Section 4 eliminates the current \$25 fee on these carriers for filing a copy of their ICC certificate of authority and the \$5 fee for filing an amendment to the certificate.

EXPLANATION OF PROPOSAL 6 (Continued)

Federal law also requires the State to waive collection of the \$1 vehicle registration fee if it had a reciprocal agreement with another state on November 15, 1991, that required it to do so. Accordingly, Section 4 lists the states with whom North Carolina had reciprocal agreements as of that date.

Both the bingo stamp method and the single-state method of registering interstate motor carriers are means to ensure that for-hire motor vehicles operated in interstate commerce in North Carolina are insured. Under the bingo stamp method, the motor carrier applies to each state in which a vehicle will be driven for an identification stamp that is specific to the vehicle. To obtain the stamp, the carrier must prove that the carrier has insurance on the vehicle and that the insurance meets the state's requirements for insurance coverage. The carrier places each stamp on a card that resembles a bingo card. The card has a blank for a stamp from each state. The carrier then puts the card with the stamps in the motor vehicle for which the stamps were issued. The driver of the motor vehicle must display the card to a law enforcement officer when requested to do so. A copy of a bingo stamp follows this explanation.

Under the single-state method, the states choose whether or not to be a participating state and each motor carrier selects one of the participating states as its registration state. The state selected must be the carrier's principal place of business or the state in which it will operate the largest number of vehicles. North Carolina has chosen to be a participating state. Therefore, each motor carrier whose principal place of business is in North Carolina and each motor carrier whose principal place of business is in a non-participating state and whose operations are largely in North Carolina must choose North Carolina as its single registration state. North Carolina's role as the single registration state for a motor carrier is to register the vehicles the carrier will operate in any state during a calendar year, collect the fees that apply to each state in which a vehicle will be operated, and issue a receipt to the carrier showing the total number of vehicles the carrier has registered for each state.

To obtain a receipt, a carrier must prove that it has a certificate of authority issued by the ICC. The certificate of authority is proof that the carrier has adequate insurance; a state may not demand more coverage than is required to obtain an ICC certificate of authority. The carrier must put a copy of the receipt in each of the carrier's vehicles. Like its bingo stamp predecessor, the receipt must be shown to a law enforcement officer upon request. Unlike its bingo stamp predecessor, the receipt is not specific to a vehicle, thereby enabling a carrier to replace vehicles or swap them without applying for a new receipt. A copy of a single state insurance registration receipt follows this explanation.

EXPLANATION OF PROPOSAL 6 (Continued)











The switch to a single-state method for ICC-regulated interstate for-hire motor carriers completely changes the registration system for these vehicles.

The Division of Motor Vehicles will register vehicles to be operated in any jurisdiction for motor carriers who select North Carolina as their registration state and will not register any vehicles to be operated in the State by motor carriers whose registration state is a state other than North Carolina. In addition, as required by federal law, the application period for registration and the period in which a registration is valid differs from the bingo stamp method. The application period for the single-state system is August 1 to November 30, and the application period for the bingo stamp method is October 1 through January 31. A registration issued under the single-state system expires on December 31, and a registration issued under the bingo stamp method expires February 1.

In addition to rewriting the statutes to incorporate the single-state method, the bill clarifies the registration requirements of intrastate motor carriers, makes the current penalty for violations by interstate motor carriers applicable to intrastate motor carriers as well, and makes technical changes. The State statutes do not address the registration of intrastate motor carriers even though the Division of Motor Vehicles currently requires the carriers to both register their operations with the State and verify that their vehicles are insured. Section 2 of the bill codifies the current administrative practice on this subject. Section 3 moves the penalty provisions in G.S. 20-382(d) that apply to interstate motor carriers to a new statute and includes intrastate motor carriers within its scope. The present penalty is subject to legal challenge on the basis of both equal protection and the federal commerce clause.

The bill makes numerous technical changes to make the wording of the statutes consistent, to eliminate confusion, and to eliminate unnecessary provisions. Section 5 of the bill is part of the technical changes. It deletes definitions in G.S. 20-386 that either duplicate the definitions in G.S. 20-4.01 or are not used in the Article. The definitions in G.S. 20-386(6), (11), (17), and (20) are also defined in G.S. 20-4.01, which applies to every statute in Chapter 20. The definitions in G.S. 20-386(3), (10), (12), (18), and (22) are not used in the Article and are, therefore, unnecessary.

BINGO STAMP

	Alaska	Arizona		California MC 118831	
	Delaware	District of Columbia	Florida	\$5.00	Hawaii
	036218MC Exp. 01/31/94 129486-A	Indiana 8295-A	Iowa RN 9129		Kentucky
	MAINE REGISTRATION 28263 FOR HIRE 1993	Maryland	MASSACHUSETTS EXPIRES 1-31-93 1992  479891	Michigan M93 1087	MINNESOTA C5360031 MC 118831 EXPIRES FEB/1/94
	Missouri T47,477	107795 19  93 EXPIRES FEB. 1, 1994	Nebraska	Nevada	N.H.D.O.S. INTERSTATE REGISTRATION NO. 118954 EXPIRES FEB. 1, 1994

New Jersey	NM SCC 93 EXPIRES 2/1/94 26536	DEPARTMENT OF TRANSPORTATION NEW YORK 1993 064846 Expires Jan. 31, 1994		1993 N D P S C 054034 EXP. 1-31-94	PUBLIC UTILITIES COMMISSION OHIO 1993 179590 EXPIRES 1-31-94
	Oregon	Pennsylvania	R.I.P.U.C. REGISTRATION NO. 054379 FOR HIRE EXPIRES FEB. 1, 1994		
	118831 TEXAS 1993 126600	93 EXP 2 1 94 0179737	Vermont	1993 Vermont S.C.C. Expires Feb. 1, 1994 E107203	Washington
19/93 W. VA. P.S.C. EXPIRES 1-31-94		WYOMING			

SINGLE STATE INSURANCE REGISTRATION

REGISTRATION RECEIPT-FORM RS-3

NC DEPARTMENT OF MOTOR VEHICLES
100 NEW BERN AVENUE
RALEIGH, NC 27520
TELEPHONE NO: (919) 733-7631

IN ACCORDANCE WITH PUBLIC LAW 102-240,
THIS RECEIPT, EVIDENCING REGISTRATION
AUTHORITY, MUST BE CARRIED IN
THE CAB OF THE VEHICLE AND MAY NOT BE
REPRODUCED. ALTERATION WILL RESULT IN
FISCATION AND PENALTIES.

* EFFECTIVE: 01/01/94 EXPIRES: 12/31/94

*
* SERIAL NO:

* THIS RECEIPT AUTHORIZES THIS MOTOR
* CARRIER TO OPERATE IN THE FOLLOWING
* STATES:
* AL(0439), AR(0174), CA(0178), CO(0004),
* CT(0278), GA(0616), IA(0009), ID(0003),
* IL(0189), IN(0142), KS(0007), KY(0149),
* LA(0187), MA(0199), ME(0004), MI(0029),
* MN(0004), MO(0043), MS(0302), MT(0002),
* NC(1117), ND(0002), NE(0007), NH(0014),
* NJ(0106), NY(0363), OH(0229), OK(0082),
* RI(0189), SC(0616), SD(0002), TN(0527),
* TX(0151), UT(0003), VA(0582), WA(0001),
* WI(0005), WV(0303) ***



GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

S

D

(Proposal 7) 93-LJZ-36
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: TRAC Lease Not Sale or Security Interest. (Public)

Sponsors: Senators Speed, Hoyle, Lee, Marshall, Martin of Pitt,
Plexico, Simpson, and Smith.

Referred to:

A BILL TO BE ENTITLED

AN ACT CLARIFYING THAT A MOTOR VEHICLE OPERATING LEASE THAT
CONTAINS A TERMINAL RENTAL ADJUSTMENT CLAUSE IS NOT A SALE AND
DOES NOT CREATE A SECURITY INTEREST IN THE LEASED PROPERTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 25-2A-103(1)(j) reads as rewritten:

"(j) 'Lease' means a transfer of the right to possession
and use of goods for a term in return for
consideration, but a sale, including a sale on
approval or a sale or return, or retention or
creation of a security interest is not a lease.
Unless the context clearly indicates otherwise, the
term includes a sublease. The term includes a
motor vehicle operating agreement that is
considered a lease under § 7701(h) of the Internal
Revenue Code."

Sec. 2. This act is effective upon ratification.

Explanation of Proposal 7

TRAC LEASE NOT SALE OR SECURITY INTEREST

This proposal clarifies the status under the Uniform Commercial Code of a lease that contains a terminal rental adjustment clause. It declares that this type of lease, known as a TRAC lease, is a lease. This prevents the possibility that this type of lease would be considered by a court to be a security interest or a sale. The change is effective upon ratification.

This proposal was recommended to the Transportation Oversight Committee by the truck leasing industry. Similar legislation has been passed in about 20 other states. The industry is concerned that in the absence of this provision in the law, a TRAC lease might not be considered a true lease and would, therefore, be considered to be either a sale or a security interest.

It matters whether or not an agreement is a lease, a sale, or a security interest for tax purposes and also for the commercial purpose of determining who is entitled to the property covered by the agreement if the person who agreed to pay for the use of the property declares bankruptcy or otherwise defaults on the agreement. Section 7701(h) of the Internal Revenue Code resolves the issue for tax purposes by considering a TRAC lease as a lease rather than a sale or a security interest. The issue arguably remains open for the commercial purpose.

The significance of the commercial purpose is illustrated in the following example: suppose Company X leases vehicles to Company Y under a TRAC lease and that Company Y declares bankruptcy. If the TRAC lease is considered a sale, then Company X cannot get the vehicles back from Company Y. If the TRAC lease is considered a security interest, Company X will join Company Y's other creditors who are attempting to get the assets of Company Y. If Company X did not file its lease as a security interest, which it is not likely to have done because it did not consider the lease a security interest, it will be an unsecured creditor and its claims will, therefore, be met only after the claims of Company Y's secured creditors have been satisfied.

A TRAC lease is a motor vehicle operating lease that contains a terminal rental adjustment clause. This clause permits an adjustment of rent either upwards or downwards at the end of the lease based on the difference at the end of the lease between the expected value of the vehicle and its actual value. If the actual value exceeds the expected value, the lessor compensates the lessee for taking good care of the vehicle. If the actual value is less than the expected value, the lessee compensates the lessor for the shortfall. The clause is, therefore, a means to give lessees an incentive to properly maintain the leased vehicles and to allow lessors to lower their rates because the clause lowers their risk of residual loss.

EXPLANATION OF PROPOSAL 7 (Continued)

The proposal is supported by the American Automotive Leasing Association and the Equipment Leasing Association. It does not affect consumer automobile leases.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

D

Proposal 8 (94J-RWZ-006)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Let DOT Sell Ferry Souvenirs. (Public)

Sponsors: Representatives Bowie, Bowen, Grady, R. Hunter,
McAllister, McLaughlin, and Robinson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO SELL
3 SOUVENIRS ON FERRIES AND AT FERRY FACILITIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 136-82 reads as rewritten:
6 "§ 136-82. Department of Transportation to establish and maintain
7 ferries.
8 The Department of Transportation is vested with authority to
9 provide for the establishment and maintenance of ferries
10 connecting the parts of the State highway system, whenever in its
11 discretion the public good may so require, and to prescribe and
12 collect such tolls therefor as may, in the discretion of the
13 Department of Transportation, be expedient.
14 To accomplish the purpose of this section said Department of
15 Transportation is authorized to acquire, own, lease, charter or
16 otherwise control all necessary vessels, boats, terminals or
17 other facilities required for the proper operation of such
18 ferries or to enter into contracts with persons, firms or
19 corporations for the operation thereof and to pay therefor such
20 reasonable sums as may in the opinion of said Department of
21 Transportation represent the fair value of the public service
22 rendered.
23 ~~To provide for the comfort and convenience of the passengers on~~
24 ~~the ferries established and maintained pursuant to this section,~~
25 ~~the~~ The Department of Transportation, notwithstanding any other

1 provision of law, may operate, or contract for the operation of,
2 concessions on the ferries and at ferry facilities to provide to
3 passengers on the ferries food, drink, and other refreshments,
4 and personal comfort items for those passengers. items, and
5 souvenirs publicizing the ferry system."

6 Sec. 2. This act becomes effective July 1, 1994.

**** EXPLANATION ****

This proposal amends G.S. 136-82 to allow DOT to sell or contract for the sale of souvenirs publicizing the ferry system on ferries and at ferry facilities.

* * * *

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

D

Proposal 9 (94J-RWZ-004)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Let DOT Dredge For Local Gov't. (Public)

Sponsors: Representatives Bowen, Bowie, Grady, R. Hunter,
McAllister, McLaughlin, and Robinson.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERFORM
3 DREDGING SERVICES FOR UNITS OF LOCAL GOVERNMENT.
4 The General Assembly of North Carolina enacts:
5 Section 1. Article 6 of Chapter 136 of the General
6 Statutes is amended by adding a new section to read:
7 "§ 136-82.2 Authority to perform dredging service.
8 The Department of Transportation may perform dredging services,
9 on a cost reimbursement basis, for a unit of local government."
10 Sec. 2. G.S. 66-58(c) is amended by adding a new
11 subdivision to read:
12 "(16) The performance by the Department of
13 Transportation of dredging services for a unit
14 of local government."
15 Sec. 3. This act becomes effective July 1, 1994.

**** EXPLANATION ****

This proposal amends G.S. 66-58 (restrictions on government business activity), and adds new G.S. 136-82.2 to allow the Department of Transportation to perform dredging services on a cost reimbursement basis for local governments.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

D

Proposal 10 (94J-RWZ-007)

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Remove DOT Appraisal Exception Sunset. (Public)

Sponsors: Representatives R. Hunter, Bowen, Bowie, Grady, McAllister, McLaughlin, and Robinson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE PERMANENT THE EXEMPTION FOR REAL ESTATE ACQUIRED BY THE DEPARTMENT OF TRANSPORTATION FROM THE REQUIREMENT THAT IT BE APPRAISED BY A LICENSED OR CERTIFIED APPRAISER WHEN THE ESTIMATED VALUE OF THE REAL ESTATE IS LESS THAN TEN THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 94 of the 1991 Session Laws, as amended by Section 1 of Chapter 519 of the 1993 Session Laws, reads as rewritten:

"Sec. 2. This act is effective upon ~~ratification and expires July 1, 1994.~~ ratification."

Sec. 2. This act is upon ratification.

**** EXPLANATION ****

This proposal amends Section 2 of Chapter 94 of the 1991 Session Laws to remove the July 1, 1994 sunset from that section. The section currently exempts DOT from the requirement that real estate be appraised by a licensed or certified appraiser when the estimated value of the real estate is less than \$10,000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

D

Proposal 11 (94J-RWZ-012)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Let DOT Buy Mitigation Land. (Public)

Sponsors: Representatives McLaughlin, Bowen, Bowie, Grady, R. Hunter, McAllister, and Robinson.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ACQUIRE LAND BY GIFT OR PURCHASE FOR ENVIRONMENTAL MITIGATION OR ENHANCEMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 136-18 is amended by adding a new subdivision to read:

"(28a) The Department of Transportation may obtain, by gift or purchase, a fee interest or an easement in land for the following:

a. Wetland mitigation or other environmental mitigation or enhancement in conjunction with a transportation project.

b. A wetlands bank or another type of environmental mitigation or enhancement provided for by the Intermodal Surface Transportation Efficiency Act of 1991."

Sec. 2. This act becomes effective July 1, 1994.

**** EXPLANATION ****

This proposal allows DOT to obtain land in fee or by easement through gift or purchase for wetland or other environmental mitigation when necessary in conjunction with a transportation project or pursuant to ISTEA.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

D

S

Proposal 12 (94J-RWZ-014)

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Limit vehicle overweight penalties. (Public)

Sponsors: Senators Hoyle and Smith.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO LIMIT PENALTIES FOR MULTIPLE VIOLATIONS OF SINGLE AXLE,
TANDEM AXLE, AND AXLE GROUP WEIGHT LIMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-118 is amended by adding a new subsection to read:

"(e1) Penalty Limit For Multiple Violations. -- Penalties for two or more violations of the weight limits set by this section are limited as follows:

(1) If the weight of a vehicle does not exceed 80,000 pounds, the total penalty assessed shall not exceed the highest of the single-axle, tandem-axle, or axle group penalties that apply.

(2) If the weight of a vehicle exceeds 80,000 pounds, the total penalty assessed shall be:

a. The penalty for exceeding 80,000 pounds, if that is the highest of the penalties that apply.

b. The penalty under subdivision (1), plus the penalty for exceeding 80,000 pounds, if the penalty for exceeding 80,000 pounds is not the highest of the penalties that apply."

Sec. 2. This act becomes effective July 1, 1994.

**** EXPLANATION ****

This proposal originated with the subcommittee on bridge formula and penalty stacking. For a discussion of it, see the Bridge Formula and Penalty Stacking Subcommittee Report in this report.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

D

Proposal 13 (94J-RWXZ-015)
THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Forest weight tolerance/fee. (Public)

Sponsors: Senators Hoyle and Smith.

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO ALLOW A TEN PERCENT WEIGHT TOLERANCE FOR VEHICLES
3 TRANSPORTING UNPROCESSED FOREST PRODUCTS UPON PAYMENT OF A FEE.
4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-118(c) is amended by adding a new
6 subdivision to read:

7 (13) Unprocessed forest products.--Vehicles transporting
8 unprocessed forest products may exceed the axle group weight
9 limits set in this section by up to ten percent (10%), subject to
10 a maximum gross weight of 80,000 pounds and upon payment of a fee
11 of one-hundred fifty dollars (\$150.00) to the Division. This
12 exception shall not apply to vehicles on Interstate highways.

13 Sec. 2. This act becomes effective July 1, 1994.

14
15 ****EXPLANATION****

16 *This proposal originated with the subcommittee on bridge formula and penalty stacking. For a discussion*
17 *of it, see the Bridge Formula and Penalty Stacking Subcommittee Report in this report.*

PROPOSAL 14

CONFIDENTIALITY OF DMV RECORDS

At the request of Co-Chairman Senator Lee, at its January and February meeting the Committee reviewed DMV's practice of giving out vehicle owners' home addresses over the phone when persons call with a license plate number. This issue, and the broader issue of privacy of motor vehicle records, had become a concern due to recent stalking cases and harassment of persons at medical facilities.

Prior to making any recommendations, the Committee reviewed current N.C. statutes and rules on this issue, which provide that: (1) Vehicle registration records are public records open to inspection (G.S. 132-6); (2) DMV records must be open to public inspection during business hours (G.S. 20-43); and (3) "Verification of information from (DMV) records as to license numbers, ownership, or liability insurance requires a written request..." (N.C. Administrative Code T19A: 03C .0232).

In addition, the Committee reviewed existing DMV practice concerning requests to identify names and addresses using license plate numbers. According to Carol Howard, Assistant Director of the Vehicle Registration Section, the Division of Motor Vehicles frequently receives requests for names and addresses to match license plate numbers, for a variety of reasons, from individuals and organizations. Organizations that request the information frequently are assigned a user code, and billed for each request. Individuals with single or infrequent requests were asked to fill out a record request form, and pay a \$1.00 copying fee. In some situations, the information was given out over the phone to individuals if a sufficiently urgent need was stated, such as a vehicle blocking a road or driveway. No records were kept of telephone requests.

The Committee, following its review of current law and DMV practice, asked DMV to suggest ways to address this issue. In response, at the Committee's February meeting, Carol Howard of DMV's Drivers License Section, proposed a revision to its policy, which was endorsed by the Committee, and became effective April 15, 1994.

The new policy for release of vehicle registration information is as follows:

Vehicle registration information will be released by two methods:

1. Request for information made in writing; or
2. Request made through the Special Telephone Service by a User Code Number.

CONFIDENTIALITY OF DMV RECORDS (Continued)

In addition, the \$1 charge for information remains, but is waived for law enforcement and other government agencies, but their requests must also be in writing. In situations where information is needed immediately, a fax will be accepted. The new request for information form, MVR-605A, provides a place for the requester to sign a statement certifying that the information obtained will be used only for the purpose stated by the requester on the form.

PROPOSAL 15

PROPOSED RECOMMENDATIONS
FOR
INMATE LABOR PROGRAM

1. Recommend that the Departments of Transportation and Correction review all of their procedures to maximize the use of road squad inmate labor without imperiling the public. Assign a lead staff person to oversee, coordinate and evaluate procedures to ensure that the greatest number of inmates are assigned to road squads.
2. Recommend that at each road squad unit a labor pool be created. This would allow for the replacement of inmates who are not available on a particular day, thereby assuring an ample pool of eligible inmates. In addition, it is recommended that DOC develop a procedure to make relief officers available when needed for road squads.
3. Recommend that inmates who meet the criteria for road squad assignment be assigned to units with road squads, and that DOC review their need for road squads, by unit, in order to assign as many eligible inmates to road squad units as possible.
4. Recommend placing more minimum custody inmates on road squads, including using 14 man crews under DOC supervision.
5. Recommend that DOC construct additional day room space onto existing barracks. The construction of additional day room space will allow DOC to assign more inmates to units with road squads. DOC has lost over 400 inmate beds from existing medium custody facilities due to court action requiring that inmates be provided additional day room space. DOC also plans to eliminate 400 existing beds at minimum custody facilities, which could be saved by adding day room space to existing barracks.
6. Recommend that DOC funding be based on the actual number of labor days for both minimum and medium custody inmates.
7. Recommend that DOC comply with the requirements of G.S. 148-26.5 and compute the annual cost of the inmate labor road squad program, and report these costs to the Joint Legislative Transportation Oversight Committee. The Fiscal Research Division will work with the department in preparing a format for computing the actual costs of operating the inmate road squads.

PROPOSED RECOMMENDATIONS FOR INMATE LABOR PROGRAM (Continued)

8. Recommend DOC review its practice of prohibiting the use of inmates with serious assaultive crimes against persons until they are within 6 months of being eligible for minimum custody. A recommendation is that DOC consider changing the 6 month time frame to one year and 2 years for all others.
9. Recommend that DOT identify employees of the DOT and inmates on road squads by means of signs and appropriate apparel, or other ways of identifying work crews on our highways and roads.
10. Recommend that the departments use more inmates to paint guard rails and eradicate weed and shrub around guard rails and road signs. Recommend that DOC review their policy of not allowing medium custody inmates to use chain saws.
11. Require both departments to report quarterly to the Joint Legislative Transportation Oversight Committee on the status of their efforts to comply with the recommendations of the subcommittee and full committee. The Fiscal Research Division staff will make recommendations on reporting requirements to the departments.

**SUBCOMMITTEE
REPORTS**

SUBCOMMITTEES

The Chairmen of the Transportation Oversight Committee appointed three Subcommittees to deliberate on issues and bring back recommendations to the full Committee. The Subcommittees and their membership are as follows:

FS-1 INSURANCE FORMS

Senator Elaine Marshall, Chair

**Senator David Hoyle
Representative George Robinson
Representative Dan DeVane**

INMATE LABOR

Representative Bob Hunter, Chair

**Representative Mary McAllister
Senator Jim Speed
Senator Paul Smith**

BRIDGE FORMULA/PENALTY STACKING

Senator David Hoyle, Chair

**Senator Paul Smith
Representative Bob Hunter
Representative George Robinson**

REPORT FROM THE SUBCOMMITTEE ON THE USE OF INMATE LABOR IN ROAD SQUADS

The Subcommittee on the Use of Inmate Labor in Road Squads was charged with strengthening the current road squad inmate labor program. It especially was charged with the aspects of the program involving road squads assigned to work with the Department of Transportation. In particular, the Subcommittee was asked to discuss and make specific recommendations concerning:

- (1) Putting more inmates to work on road squad assignments;
- (2) Making the inmate labor program more viable to the general public;
- (3) A determination of whether a pilot program is needed in order to accomplish 1) and 2) above;
- (4) The impact of future prison construction on the inmate labor program; and,
- (5) A review of the actual program costs to the Departments of Correction and Transportation.

REPORT FROM THE SUBCOMMITTEE ON THE USE OF INMATE LABOR IN ROAD SQUADS (Continued)

COMMITTEE PROCEEDINGS

DECEMBER 1, 1993 MEETING

The Subcommittee held its first meeting. Representative Hunter stated that there is a perception by the public that most of the inmates in our penal system are not provided with work assignments and are a drain on our State's resources. He also stated that of the inmates on road maintenance work, there is generally no way for the public to identify these inmates at work sites, unless there is a guard nearby with a shotgun. Representative Hunter stated that it was his desire to come up with recommendations to address the public's concerns and to allow for free and honest dialogue between the Departments of Correction and Transportation on this very important matter.

Committee staff discussed the cooperative contract agreement outlining each department's responsibility in assuring that minimum and medium custody inmates are assigned to local road squads.

Keith Hester, Assistant Command Manager, Department of Correction's Division of Prisons, was recognized. He stated that local prisons are often hindered from assigning adequate medium custody inmates to road squads due to an insufficient number of correctional officers. Subcommittee members were told that these correctional officers, who supervise medium custody inmates on road assignments, do not have a "relief" factor. If a correctional officer is sick or on leave, there is no one available to go out and supervise the inmates, so the inmates do not go out for that day or period of time.

Keith Hester also discussed at length a document which identifies the status, on a monthly basis, of all inmates under the supervision of the Department of Correction. The Assignment File Summary is a document used by DOC managers to show them the aggregation of inmates under numerous scenarios.

JANUARY 5, 1994

The Subcommittee held its second meeting and heard from Harry Ballard, NCDOC, who spoke in detail about inmate assignments. He told the Subcommittee that besides on-unit assignments (food service, maintenance, etc.) available to inmates there are three (3) other major assignment areas available to inmates: Business Enterprises, Education Related Programs,

REPORT FROM THE SUBCOMMITTEE ON THE USE OF INMATE LABOR IN ROAD SQUADS (Continued)

and Road Squads. Harry Ballard answered questions pertaining to inmate assignments and described the various categories of work including inmates health grades. Subcommittee members asked DOC to provide them with additional information for the next meeting. They especially want to see a breakout of the Admissions Processing, Unassigned and Assignment Pending Categories shown in the DOC document.

The Subcommittee discussed the loss of beds at local units due to the day room space requirements under the Small vs. Martin lawsuit. This lawsuit requires DOC to provide each inmate with 25 square feet of day room space. In most units, DOC took out inmate beds in order to meet the mandate of the lawsuit, which has had the net result of reducing the number of beds in a unit and thereby helping to contribute to the reduction of inmates that are available for road squads. According to DOC over 400 beds have been lost at local units in their attempts to comply with the lawsuit and they anticipate losing another 470 beds by July 1, 1994.

There was some discussion by the Subcommittee on the types of road assignments available to inmates and the type of equipment inmates are allowed and not allowed to handle. The subcommittee was told by DOC staff that medium security inmates are not allowed to use chain saws in road squads, but can use bush axes. The Subcommittee Chairman asked DOC to return to the next Subcommittee meeting to discuss possible recommendations pertaining to assigning more inmates to road squads and the issues of safety and security in road assignments.

FEBRUARY 1, 1994

The Subcommittee held its third meeting. DOC staff reviewed for the Subcommittee the admissions process for inmates assigned to the various Correction units and provided the Subcommittee members with a breakout of the major categories identified at the previous meeting. DOC staff discussed the various stages that an inmate must be put through including an initial diagnostic exam and a review of their criminal action. The Subcommittee Chairman was interested in determining how many of the inmates going through the admissions process could be assigned to units with road squads. DOC staff was not able to give the Subcommittee a definitive answer. They told the Subcommittee that many of the inmates being processed were classified as misdemeanants and, therefore, not in the penal system long enough to be assigned to a road squad unit; inmates assigned to road squads are all convicted felons.

REPORT FROM THE SUBCOMMITTEE ON THE USE OF INMATE LABOR IN ROAD SQUADS (Continued)

DOC staff was asked to discuss their rationale for eliminating the use of chain saws by road squad inmates. DOC told the Subcommittee that after a 1990 accident that resulted in the death of a road squad inmate, they reviewed their road squad policies including the use of equipment. As a result of their policy review, it was ultimately decided that medium custody inmates would not be allowed to use chain saws; they cited lack of training, safety, and security as the rationale for not allowing this category of inmates to use chain saws.

There was a discussion by Subcommittee staff pertaining to program costs to DOC in managing the inmate labor program. DOC identified their actual costs for operating the program at approximately \$6.5 million, including fringe benefits. Staff also reviewed the main components of the contract agreement between DOC and DOT. There was some concern expressed by the Subcommittee members on the inability of DOC to provide more than 47% of the inmate labor days for medium custody inmates to DOT. DOT reimburses DOC \$4.6 million for 185,000 inmate labor days, but is only receiving approximately 87,000 inmate labor days. DOC staff told the Committee that the Director of the Division of Prisons has proposed that DOC pay for all program costs in future years, but that this proposal is under review.

There was some discussion on the costs of providing a relief factor for those units with medium custody road squads.

The Subcommittee discussed the recommendations drafted by staff and discussed each recommendation at length. The Subcommittee Chairman asked both DOC and DOT to review the recommendations and return on February 2, 1994 for a final review of the recommendations.

FEBRUARY 2, 1994

The Subcommittee held its fourth and final meeting to discuss and adopt recommendations and to approve its final recommendations to the Joint Legislative Transportation Oversight Committee.

REPORT FROM THE SUBCOMMITTEE ON CERTIFICATION OF MOTOR VEHICLE LIABILITY INSURANCE FORMS (FS-1s)

The Joint Legislative Transportation Oversight Subcommittee on Certification of Motor Vehicle Liability Insurance Forms (FS-1) met twice, November 19, 1993 and April 26, 1994.

At the first meeting, the Division of Motor Vehicles presented an overview of the problem the Subcommittee was formed to address. Each year, approximately 1.6 million notices of termination of insurance (FS-4s) are sent to DMV by insurance companies, as required by law. From this information, DMV generates over 1 million letters of lapse of insurance coverage (FS5-7s) informing the vehicle owners they must certify liability coverage or face loss of their license plate. Clearance of plate revocation occurs when an FS-1 form provided by the individual's insurance company is forwarded to the Division. Many people who receive these letters have done nothing more than change insurance carriers. They often object to being threatened with administrative action because no system of updating information on insurance status currently exists between DMV and the insurance industry.

The Subcommittee discussed methods to address this problem, including requiring insurance companies to submit to DMV notification of all new liability policies. This would theoretically allow DMV to match notices of cancellations with notices of new business, thus avoiding thousands of letters and enforcement efforts against persons who have maintained continuous liability coverage. Although simple in theory, this strategy is complicated by many factors, including errors in vehicle identification numbers (VINs) and limitations in the current DMV computer system.

DMV proposed that submission of certification of insurance forms (FS-1s) by insurers be tested in a pilot program. The pilot would allow DMV and the insurance industry to examine several issues, including DMV's ability to handle the increased workload, methods to increase accuracy in vehicle identification number matching, and evaluation of the effectiveness of the proposed requirement measured by decreases in FS5-7s and FS-44s (plate pick-up orders sent to enforcement officers). DMV agreed to make regular updates to the Joint Legislative Transportation Oversight Committee on the progress of the pilot program.

The Subcommittee agreed unanimously to endorse the proposed pilot program, with regular reports to the Oversight Committee.

At the April 6 meeting of the Transportation Oversight Committee, Senator Elaine Marshall, Chairman of the Subcommittee, briefed the full committee on the issues regarding the inefficiencies in the current system of certification of compulsory liability insurance. Dale Clark, of the Department of Transportation's Management Information Services (MIS) Division, reported on the progress of the pilot program. It began February 1 with four large

**REPORT FROM THE SUBCOMMITTEE ON CERTIFICATION
OF MOTOR VEHICLE LIABILITY INSURANCE FORMS
(FS-1s) (Continued)**

insurance companies voluntarily submitting electronically FS-1 forms on all new business within 30 days of the effective date of the new policy. The four companies participating are Nationwide, Farm Bureau, State Farm, and Integon. The industry estimates these four companies account for 60-70% of all automobile insurance policies written in North Carolina.

Statistical results for February 7th through March 25th showed that even with the additional information submitted by the insurance industry, only 4.3% of all FS-1s (certification) submitted were able to clear an FS-4 (termination) in time to stop an FS5-7 (lapse of insurance letter). Senator Marshall reported the Subcommittee would continue to meet to discuss and formulate possible recommendations to the Oversight Committee for inclusion in the final report to be submitted to the 1994 General Assembly.

The Subcommittee met for the second time on April 26, 1994 at the Division of Motor Vehicles. After a short tour of the Financial Security Section, the Subcommittee agreed to recommend the following to the Joint Legislative Transportation Oversight Committee at its next meeting:

1. That DMV change the parameters of the pilot program to experiment with new procedures to improve the matching of FS-4s and FS-1s.

Currently, DMV is mailing an FS5-7 within 24 hours of receipt of an FS-4 from insurance companies. Information gleaned from the pilot program indicated if the FS5-7 was not sent out immediately and was held for eight days, the matching percentage could potentially increase to 60%.

DMV responded that this change was being implemented immediately.

2. Make 17-digit VIN edit package used by DMV available to all insurance companies.

One of the reasons the matching percentage was so low in the early stages of the pilot program was that 10% of all FS-1s from insurance companies contained VINs that were incorrect. Most companies use a smaller edit package of 11 digits, while DMV matches all 17 digits of the total VIN.

DMV responded that they are willing to make this software package available to anybody in the industry at no cost. David Horne, who represents independent insurance companies, agreed to publicize this benefit through the statewide trade association.

REPORT FROM THE SUBCOMMITTEE ON CERTIFICATION
OF MOTOR VEHICLE LIABILITY INSURANCE FORMS
(FS-1s) (Continued)

3. Require more uniformity of information submitted from the insurance industry.

Recommendations for industry standards will be formulated through the cooperation of DMV and representatives of the insurance industry. The items to be addressed include: (1) the maximum waiting period for submission of FS-4s to DMV; and, (2) the company size and volume of business that can be expected to transmit FS-4s electronically.

DMV and the insurance industry responded by agreeing to develop guidelines for more efficient transmission of information.

REPORT FROM THE SUBCOMMITTEE ON BRIDGE FORMULA AND PENALTY STACKING

The Bridge Formula and Penalty Stacking Subcommittee met three times: on January 26, April 19, and May 17, 1994. At its first meeting, the Subcommittee reviewed the history of the federal bridge formula and its application to State roads, defined and discussed "penalty stacking," discussed the exceptions in G.S. 20-118(i)(2) that expired on October 1, 1994, reviewed examples of DMV weight enforcement actions, heard from the Federal Highway Administration concerning efforts by it to make enforcement of the federal bridge formula more uniform, and received comment from two affected industries: the forestry industry, which expressed interest in a weight exception, and the concrete mix industry, which expressed support for the current law. At the end of the meeting, the Subcommittee asked staff to prepare information on weights and penalties in surrounding southeastern states.

At the Subcommittee's second meeting, the Subcommittee reviewed data from surrounding states, which indicates that North Carolina is the only State in the region that is "stacking" axle weight and bridge formula weight penalties for violations on State highways and applying the bridge formula weight limits to vehicles that transport unprocessed forest products on State roads. The Subcommittee heard from representatives of the forest products industry, who expressed support for an exception to the bridge formula weight limits for their industry. The Subcommittee reviewed various options to address these problems, and tentatively approved a recommendation that vehicles transporting forest products be granted an axle-group weight tolerance.

At the Subcommittee's final meeting on May 17, 1994, the Subcommittee reviewed several draft bills addressing penalty stacking and the weight exceptions. The Subcommittee also heard from representatives of the forest products and construction aggregates industries who requested consideration of weight tolerances for their industries. The Subcommittee approved the following two bills, which were also approved by the full Committee for submission to the 1994 General Assembly:

1. Short Title: Limit vehicle weight penalties

Draft 94J-RWZ-014 amends G.S. 20-118 to eliminate penalty stacking for multiple violations of single axle, tandem axle, and axle group (bridge formula) weight limits, except on interstate highways. The total penalty for two or more single axle, tandem axle, or axle group weight violations would be the highest one that applied. If a vehicle exceeds 80,000 pounds, the penalty for that violation would apply in addition to the highest weight penalty that applied.

Ruth Sappie of the Fiscal Research Division, in her analysis for the Subcommittee, estimated that this proposal will result in a \$2.5 million loss of revenue to the Highway Fund.

BRIDGE FORMULA AND PENALTY STACKING (Continued)

2. Short Title: Forest weight tolerance/fee

Draft 94J-RWJ-015 amends G.S. 20-118 to allow a 10% weight tolerance for vehicles transporting unprocessed forest products, subject to a maximum gross weight of 80,000 pounds and upon payment of a \$150 fee to the Division of Motor Vehicles.

MANDATED REPORTS

MANDATED REPORTS

The 1993 General Assembly mandated the Department of Transportation (DOT) to present numerous reports to the Transportation Oversight Committee. DOT has met all deadlines in the submission of its reports. The key findings and recommendations of each report are summarized below.

CONSOLIDATION OF DRIVER LICENSE OFFICES

Since January, 1992, 45 part-time DMV driver license offices have been closed. This number of closings is less than that recommended by GPAC (64), the State Auditor (71), and DMV itself (67). The decision not to close more offices was based on the desire to have at least one office in every county and to have offices within 25 miles of all citizens. The State now has 99 full-service offices, 8 express offices, and 43 part-time offices.

The savings from the office closings is \$10,202 in reduced travel and a cost avoidance of \$635,223 from not automating the 45 closed offices. GPAC recommended a reduction in staff, but DMV has reassigned personnel from the part-time offices to the full-service offices to reduce waiting lines. GPAC proposed closing 64 offices, eliminating 76 positions and saving \$2.3 million/year.

FUNDING OF VISITOR CENTERS

In FY 1993-94, 5 Visitor Centers located in Camden, Brunswick, Macon, Watauga, and Caswell Counties received an appropriation from the Special Registration Plate Account. Since FY 1989-90, the General Assembly has authorized the use of this account for visitor centers. Funds are taken from the account before the proceeds, net DMV expenses, are distributed by statute as follows: Commerce (33%), DOT (50%), and DHR (17%). Funding for visitor centers has reduced allocations to the three agencies previously mentioned. Funding for the centers will equal \$375,000 in FY 1994-95.

The report is a good historical review of the visitor center funding, but makes no recommendations on a permanent funding source for the centers.

MANDATED REPORTS (Continued)

CONSOLIDATION OF EQUIPMENT SHOPS

GPAC recommended the closing or consolidation of 14 DOT county garages that are in proximity to large garages that serve each of the 14 Highway Divisions. DOT reported on February 2, 1994 that 9 of the Highway Divisions had consolidated division and county garages. The 5 remaining divisions are awaiting repairs or new construction before consolidating. DOT reports no reduction in personnel due to consolidation.

TRIANGLE TRANSIT AUTHORITY

The Triangle Transit Authority (TTA) submitted its Annual Report for FY 1992-93. Achievements for the year include the following:

- o Increased vanpools from 21 to 29 vans;
- o Began regional bus service; reached 12 month goal of 1,000 riders per day in 3 months;
- o Assumed management of the Wake Coordinated Transportation Service;
- o Sponsored Regional Land Use and Transportation Conference; and,
- o Received \$937,500 grant for fixed guideway study; completed Phase I of the study.

Most of TTA's revenue comes from the \$5 per registered vehicle levied in Wake, Durham, and Orange Counties. This fee produced \$3.06 million in FY 1992-93. The regional bus service is the largest operating expense of the Authority. The agency audit by Coopers and Lybrand revealed no problems.

RESTRUCTURING THE DMV ENFORCEMENT SECTION

This report was requested in response to a GPAC issue paper on the DMV Enforcement Unit. GPAC recommended significant changes in the unit such as:

- 1) Phase out DMV process officers by contracting out tasks to private collection agencies.

MANDATED REPORTS (Continued)

- 2) Civilianize DMV inspector job classes.
- 3) Transfer Major Crimes Unit to SBI.
- 4) Transfer Motor Carrier Safety and Weight functions to the Highway Patrol.

The DMV report does not endorse the GPAC recommendations. DMV does suggest the following actions:

- o Require insurance companies to provide a FS-1 (certification of insurance coverage form) to be filed electronically with DMV when any new insurance policy is written or reinstated. This would reduce the number of license revocation orders that are served by process officers and would thus enable a reduction in personnel (a subcommittee was formed to review this issue);
- o Increase the supervisor to officer ratio from 3 to 1 to 6 to 1 over the next 5 years;
- o Disband the Major Crime Unit and assign personnel to their former duty stations (completed);
- o Reduce the civilian work force by 3 in the headquarters staff (completed);
- o Convert job titles to military rank, ranging from enforcement officers to colonel and issue new uniforms (completed); and,
- o Develop a career ladder along with a DMV Basic Law Enforcement School.

NAMING/RENAMING OF HIGHWAY FACILITIES

DOT proposed in October, 1993, and the Board of Transportation adopted in February, 1994, a new policy for naming roads, bridges, ferries, and facilities. The new policy creates a Special Committee on Road and Bridge Naming within the Board of Transportation to consider naming nominations. The Board has 90 days to review a nomination, instead of the old policy of 60 days. The Board is to consider citizen input in its deliberations. The new policy does not change the evaluation factors for choosing a road name. A broad range of individuals will continue to be eligible to have a facility named for them.

MANDATED REPORTS (Continued)

VEHICLE REGISTRATION SECTION EFFICIENCY IMPROVEMENTS

In an October, 1993 report, DMV identified the following enhancements that it is reviewing:

- o Provide large franchise dealers direct access to DMV records to allow customers to complete a registration transaction at the dealership level;
- o Allow citizens to use Automated Teller Machines (ATMs) to renew plates;
- o Allow citizens to renew license plates over the telephone with credit cards;
- o Allow vehicle manufacturers to transfer vehicle information electronically to a dealer to reduce paper flow;
- o Allow large lending institutions to record liens electronically with DMV; and,
- o Promote renewal by mail.

DOT'S USE OF INMATE LABOR

In a report mandated by Senate Bill 27 (1993 Session), the Department of Transportation (DOT) made the following findings:

- o It was 2.8 times more cost effective, in FY 1993, to use minimum custody inmate labor than it would have been to use the standard highway maintenance personnel or temporary workers. The cost sharing with DOC is more than equitable to DOT.
- o It was not cost effective, in FY 1993, or an equitable arrangement with DOC for DOT to use medium custody inmate labor. There is an appropriation from the Highway Fund of \$4.6 million; it would have cost DOT \$2.9 million to do the same work with more productive highway personnel.
- o Using medium custody labor varies the cost effectiveness with the percentage of the quota days provided by DOC. In FY 1993, 47.5% of the quota was provided. If DOC had provided 81.7% of their 1993 quota of 185,000 days, the cost would have been equal to that of using temporary labor (assuming inmate labor is 40% productive).

MANDATED REPORTS (Continued)

One conclusion of this report is that DOC should provide 80% or more of its annual quota of medium custody inmates in order for their annual contract to be more equitable to DOT. Furthermore, the use of minimum custody inmates is valuable and cost effective to DOT.

CRITERIA FOR NON-BETTERMENT CONTRIBUTIONS

The 1993 General Assembly requested that DOT "study and implement a program for the payment of non-betterment costs for the relocation of water and sewer lines within existing State highway right-of-way required by G.S. 136-27.1." DOT was directed to "develop criteria for State participation in the relocation of water and sewer lines owned by units of local government, special districts, and municipal corporations based on: (1) the ability to pay; (2) the per capita income of the population served; and, (3) the supporting tax base".

Current state law exempts municipalities of 5,500 or less population from paying non-betterment utility relocation costs. As of the 1990 U.S. Census, 441 municipalities had a population of 5,500 or less, and 79 had a population greater than 5,500. Since 1984, the State has expended about \$8.2 million for non-betterment utility relocation for municipalities and other utility owners exempted from such costs by G.S. 136-27.1.

DOT tested the following five measures of ability to pay in this study: (1) per capita income; (2) median household income; (3) percent of persons living in poverty; (4) total revenues received by municipality; and, (5) total property valuation. DOT's analysis of these five measures produced the following findings:

- Although per capita income and median household income seem reasonable measures to use, if either were used as a criterion, many medium to large municipalities would qualify as exempt. Examination of these income measures do not reflect population size, which is still the State's current measure of ability to pay.
- Total revenues and property valuations more accurately reflect the resources available to a municipality. They tend to demonstrate a strong relationship to population size. It appears that the State's use of population size as a criterion is a valid substitute for ability to pay.
- Further study is needed to assess whether the cutoff point of 5,500 population is appropriate.

MANDATED REPORTS (Continued)

- The exemptions provided in G.S. 136-27.1 for water and sewer associations, corporations, and districts are not currently based on population size; further study is needed on the number of households served by each system, which could be translated into populations served.

DOT has not made a final recommendation on this subject.

CONSTRUCTION MANAGEMENT PLAN

Senate Bill 27, Section 149(e)(4), required the submission of a plan by DOT for meeting the construction needs of the Highway Trust Fund with a minimum of new construction staff in DOT and increasing the use of outside contract forces. The plan was required as a result of recommendations outlined by the Government Performance Audit Committee.

After the passing of the Highway Trust Fund in 1989, the Construction Branch in DOT developed plans to manage the program including the utilization of outside construction engineering and inspection personnel, along with an increase of in-house personnel. No significant changes are anticipated in the number of positions needed in Raleigh for the Highway Trust Fund period. Additional field construction personnel requirements will be met with a combination in-house staff and private firms.

Construction Surveying: DOT has traditionally used only in-house staff to manage the construction program; thus, there are limited outside firms available with experience in performing construction engineering and inspection of major highway construction. However, over the past 5 years, contractors and private engineering firms have developed resources to perform the work and DOT has improved the contract provisions. In 1989, DOT wrote a "construction surveying" provision that requires the contractor to perform surveying necessary for the construction work.

Contract Administration: A pilot program was initiated in 1990 to evaluate the feasibility of utilizing private engineering firms to perform construction contract administration. This program is scheduled for continued growth over a period of years to allow private firms to develop better capabilities.

MANDATED REPORTS (Continued)

DOT is committed to the administration of the construction program in a cost-effective way with the use of in-house personnel and outside private sources. The field staff has only increased about 20%, at a time when the construction work has doubled.

PRECONSTRUCTION POSITIONS

Senate Bill 27, Section 149 (d) and (e), required DOT to submit a plan to implement recommendations pertaining to the freeze of preconstruction positions and to contract out the balance of its preconstruction work to private engineering firms.

Prior to the enactment of the Highway Trust Fund, DOT contracted out 20% to 25% of the preconstruction work to private engineering firms. As a result of the Highway Trust Fund, the Preconstruction Unit has increased the use of private firms. Currently, the use of private engineering firms has increased to approximately 32% in design, 30% in planning, and 28% in traffic engineering. DOT projects awarding over \$27 million of preconstruction activities to private engineering firms in 1993-94. This compares with \$21 million awarded in 1992-93.

DOT will fulfill the requirements of the legislation by continuing to use existing in-house manpower efficiently, and private engineering firms as necessary.

STATE GOALS FOR MINORITY BUSINESSES

The State Goals Program for Minority Business (MB) was created with the passage of the 1989 Highway Trust Fund legislation and implemented by DOT in July, 1990. In 1990 the statute was modified to add a Women Business (WB) arrangement. In 1991, upon the recommendation of the Attorney General's Office, the MB/WB Goals Program was suspended. This action was taken after DOT was sued by a contractor who was not awarded a contract when he failed to demonstrate compliance with contract provisions related to the goals program.

A consultant was hired by the Highway Oversight Committee in 1992 to conduct a disparity study to determine if there was a legally defensible basis for a goals program using State funds. After the findings were presented in January, 1993, the MB/WB Goals Program was reinstated with sanctions on contractors who do not make a good faith effort in seeking women and minority subcontractors.

MANDATED REPORTS (Continued)

A Task Force was appointed by the DOT Secretary to review the goals program and to recommend efforts that could be taken to strengthen the program. The Task Force is in the process of finalizing the work. Advocacy, outreach, training, and development will be the main components of the revised goals program.

BILLBOARD FEES

Senate Bill 27, Section 151, enacted in 1993, required DOT to report on the fees currently collected and the amount of fees that would be needed to fund the administration of the outdoor billboard program. In order to fully reimburse the administrative and inspection costs incurred by DOT, new application and annual renewal fees are required to be paid by the owners of billboards. The Board of Transportation adopts the maximum fees allowed. These fees are \$60 for a new permit application and \$30 for the annual renewal fee.

These fees generated \$280,889 in FY 1991-92 and \$273,165 in FY 1992-93. Administrative expenses for this period were \$410,277 in FY 1991-92 and \$353,633 for FY 1992-93. The operating deficit for the program was \$129,388 in FY 1991-92 and \$80,468 in FY 1992-93.

For revenues to equal administrative expenses, the fee charged for new permits and for annual renewals will have to be increased. It is recommended that the Board of Transportation be granted the statutory authority to increase the new permit application fee by \$24. Statutory limits would be set higher to allow for subsequent increases to offset future increases in expenses:

	PROPOSED	STATUTORY LIMIT
New Permit Application Fee	\$84	\$120
Renewal	\$42	\$60

PERSONNEL IMPACT OF DIVISION OF MOTOR VEHICLES' COMPUTER PROJECTS

The Division of Motor Vehicles' present computer programming does not allow for the interaction of the various systems. This lack of interfacing creates duplication efforts throughout DMV. The Driver License, Vehicle Registration, Enforcement, and Collision Reports Sections are each responsible for manually entering information into separate com-

MANDATED REPORTS (Continued)

puter systems for each section. The duplication of effort will be greatly eliminated with the new computer system and many positions will be eliminated.

The report's findings are as follows:

- o The staff reduction that will result with the new computer system will eliminate many clerical positions (Grades 54 through 55).
- o Clerical vacancies in the Vehicle Registration and Driver License Sections that will be phased out are being filled by temporary labor.
- o The actual personnel reductions will not be immediate since both the old and new systems will be operating simultaneously for the next few years (1996).
- o Full implementation of the computer system will result in the elimination of 268 positions and a savings of \$5.6 million.

<u>DMV Section</u>	<u>Position</u>	<u>Reduction</u>
Driver License Section	61	\$1.3 Million
Vehicle Registration	207	\$4.3 Million
TOTAL	268	\$5.6 MILLION

APPENDIX

HIGHWAY FUND REVENUE UPDATE

Through March 31, 1994, actual collections in the Highway Fund were \$29.0 million ahead of estimated collections for the same time period. Nearly all of this strong revenue growth is due to overcollections in motor fuels taxes and fees of \$26.6 million. Fuel tax revenues are driven by two economic indicators, fuel prices and fuel demand (or consumption). In this fiscal year, although average national retail prices have shown a continual decline, state motor fuel demand has shown its strongest yearly increase since FY 1988-89. Continued growth in the economy, declining or steady real fuel costs in a low-inflation environment, and flat fuel efficiency growth in new vehicles are the major factors contributing to this situation.

Total license and fee collections in the Highway Fund did not vary significantly from estimates. Actual collections were approximately \$200,000 ahead of projected revenues. However, there was significant variation between actual vs. projected revenues by revenue source. For example, overweight penalties and process services fees collected by the DMV Enforcement Section were \$1.4 million below estimate. Truck licenses and IRP registration fees were \$4 million above estimate because annual registration fees for property-hauling vehicles were increased in 1993 to raise additional revenue to neutralize a highway use tax reduction from \$1,500 to \$1,000 for commercial vehicles.

The following table gives a more detailed breakdown of revenue sources in the License and Fee category of the Highway Fund.

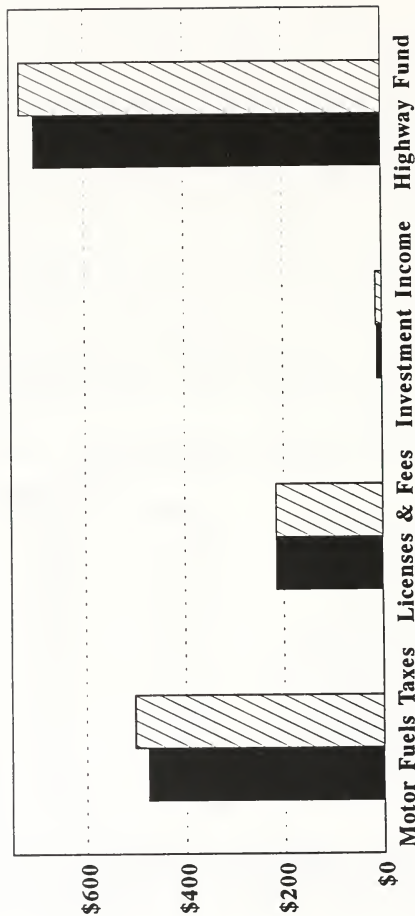
	(In \$ Millions)		
	Projected	Actual	Difference
Staggered Registration	\$85.5	\$84.2	-\$1.3)
Truck Licenses	40.5	43.0	2.5
IRP Registration	24.2	25.8	1.6
Title Fees	6.8	6.5	-(0.3)
Driver License Fees	40.6	39.0	-(1.6)
Safety Inspection Fees	2.8	2.4	-(0.4)
Emissions Inspection Fees	1.4	2.0	0.6
Auto Dealers Licenses/Fees	0.1	0.2	-
Process Service Fees	3.0	2.6	-(0.4)
Overweight/Size Permits	0.7	1.0	0.3
Motor Carrier Safety Fees	0.6	0.4	-(0.2)
Overweight Penalties	4.7	3.9	-(0.8)
Restoration Fees	1.4	1.4	-
Other Miscellaneous Fees	2.8	3.0	0.2
TOTAL	\$215.2	\$215.4	\$0.2

Investment income to the Highway Fund was \$2.3 million above projections. Until February, interest rates were falling through most of the 1993-94 fiscal year. The overcollections in this revenue source were due to a cautious approach taken last year in the uncertain interest rate environment.

HIGHWAY FUND REVENUE UPDATE

JULY - MARCH FY 1993-94

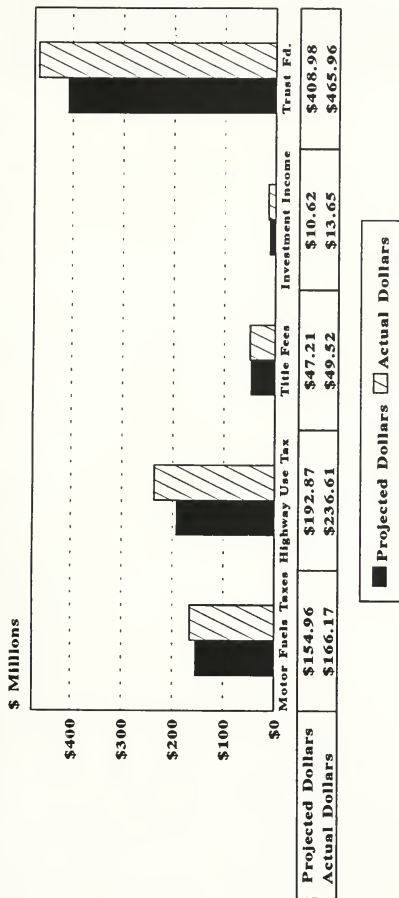
\$ Millions



■ Projected Dollars ▨ Actual Dollars

HIGHWAY TRUST FUND REVENUE UPDATE

JULY - MARCH FY 1993-94



Fiscal Research Division 5/2/94
GGB

Through March 31, 1994, total Highway Trust Fund revenues were \$56.9 million ahead of projections. This very strong growth is due primarily to a surge in highway use tax collections. Cumulative revenues through March were estimated at \$192.9 million; actual revenues came in at \$236.6 million, for a surplus of \$43.7 million. The month of March was exceptional; use tax revenues surpassed the monthly target by \$9.8 million.

Motor fuel taxes and investment income also exceeded estimates for the nine-month period for the same reasons overcollections in these revenues appear in the Highway Fund (see previous Highway Fund Revenue Update).

HIGHWAY TRUST FUND

The attached chart has the status of Highway Trust Fund projects as of December 31, 1993. On the Intrastate System, 272.4 miles, or 15.5% of the miles to be constructed are fully funded. On the Urban Loop System, only 6.7% of the planned miles are fully funded. The Oversight Committee continues to monitor the progress of these projects.

Route	Total Miles	Route Status		Fully Funded Construction Miles % of Total	Remaining Costs Per 8/93 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/93	State Dollars Authorized As of 12/31/93	Total Dollars Authorized As of 12/31/93
		PE	ROW Const.					
I-40	21.4	X	X	1.3	6.1%	85,700,000	24,891,345	24,891,345
I-77	8.9	X	X	6.4	71.9%	26,800,000	24,804,797	26,218,986
I-85	68.1	X	X	53.9	79.1%	157,048,000	308,591,102	338,692,102
I-95	N/A				N/A	3,820,000		
US-1	100.1	X	X	16.9	16.9%	203,371,000	33,497,896	93,609,148
US-13	45.9	X	X		0.0%	108,877,000	800,000	1,400,000
US-17	188.8	X	X	36.9	19.5%	552,410,000	4,533,000	61,667,032
US-19/19E	29.7				0.0%	44,400,000		
US-19	28.1		X	1.0	3.6%	305,100,000	2,946,133	2,946,133
US-23	30.0	X	X	3.0	9.9%	205,252,000	22,964,853	25,614,853
US-23-441	11.4	X	X	6.0	52.6%	9,500,000	4,581,287	18,647,287
US-52	22.5	X	X	12.6	56.0%	54,200,000	39,038,925	67,087,925
US-64 (I95 to US17)	98.5	X	X	12.9	13.1%	301,795,000	11,578,770	40,095,708
US-64 (Lex to Rail)	84.9	X	X	4.6	5.4%	147,890,000	19,247,994	31,153,946

Route	Total Miles	Route Status		Fully Funded Construction Miles % of Total	Remaining Costs Per 8/93 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/93	State Dollars Authorized As of 12/31/93	Total Dollars Authorized As of 12/31/93
		PE	ROW Const.					
US-70	64.9	X	X	6.2	247,248,000	13,874,892	7,824,905	21,699,797
US-74	51.7	X	X	1.0	343,923,000	41,562,500	3,117,500	44,680,000
US-74 (I26 to I85)	18.3	X	X	18.3	100.0%	0	28,075,000	45,445,771
US-158	240.3	X	X	10.6	4.4%	482,828,000	310,000	40,577,829
Bridge	9.9	X		0.0%	48,350,000		100,000	100,000
US-221	70.2	X	X	0.0%	166,051,000	7,400,000	3,709,111	11,109,111
US-220	30.1	X	X	8.3	27.5%	152,535,000	23,684,800	73,022,466
US-220 (to VA line)	30.6	X	X	0.0%	26,750,000		10,825,000	10,825,000
US-264	27.1	X	X	14.4	53.1%	119,276,000	22,005,000	43,943,849
US-321	38.5	X	X	13.4	34.9%	89,462,000	14,413,570	50,225,229
US-421 (TN to I40)	63.3	X	X	8.8	13.9%	223,370,000	21,290,000	21,890,000
US-421 (G'tboro to Sanford)	37.4	X	X	4.7	12.5%	142,300,000	7,498,826	7,498,826
NC-24 (& NC-24-27)	221.9	X	X	28.6	12.9%	543,624,200	41,125,425	64,255,656

Route	Total Miles	Route Status PE ROW Const.	Fully Funded Construction Miles % of Total	Remaining Costs Per 8/93 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/93	State Dollars Authorized As of 12/31/93	Total Dollars Authorized As of 12/31/93
NC-87	71.0	X X X	2.7 3.8%	188,598,800	29,981,771	12,100,000	42,081,771
NC-105	14.6		0.0%	34,700,000			
NC-168	18.5	X	0.0%	32,740,000		1,300,000	1,300,000
NC-194	10.3		0.0%	26,850,000			
TOTAL INTRASTATE	1756.9		272.4 15.5%	5,054,769,000	746,293,267	464,386,503	1,210,679,770
Asheville Western Loop	3.2		0.0%	99,300,000			
Charlotte Outer Loop	68.1	X X X	11.0 16.2%	629,459,000	145,346,630	20,847,000	166,193,630
Durham Northern Loop	16.4	X	0.0%	103,815,000		500,000	500,000
Greensboro Loop	41.6	X X	0.0%	489,920,000	7,748,000	3,470,000	11,218,000
Raleigh Outer Loop	38.0	X X X	3.2 8.4%	449,026,000	103,685,187	18,221,000	121,906,187
Wilmington Bypass	20.2	X	0.0%	157,800,000	600,000	850,000	1,450,000
Winston-Salem N Belt	24.5	X	0.0%	302,100,000		325,000	325,000
TOTAL LOOPS	212.0		14.2 6.7%	2,231,420,000	257,379,817	44,213,000	301,592,817

FUTURE STUDY TOPICS

The Legislative Research Commission referred the following studies to the Oversight Committee:

1. **All-Terrain Vehicles Licensing and Regulation**
(House Bill 1006 — Representative Smith)
2. **Comprehensive Transportation Funding**
(Senate Bill 165 and Senate Bill 166 — Senator Martin of Guilford)
3. **Public Transportation and Railroads**
(House Joint Resolution 1225 — Representative Luebke)

The Committee will discuss these topics in the fall of 1994 and present its recommendations to the 1995 General Assembly.

Several issues the Committee discussed were held for further debate in the fall of 1994. Topics such as Corolla Toll Bridge Authority, billboard law revisions, public/private agreements, and visitor center funding will be considered after the 1994 Short Session. The Committee has requested new topics such as the Ferry Division and Bike/Pedestrian programs, be presented in the fall also.

**JOINT LEGISLATIVE
TRANSPORTATION OVERSIGHT
COMMITTEE**



**REPORT TO THE
1995 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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TABLE OF CONTENTS

	<u>PAGE</u>
Letter of Transmittal.....	i
Committee Membership.....	ii
Committee Staff.....	iii
Preface.....	iv
Results of 1994 Legislative Proposals.....	1
Committee Proceedings.....	18
Committee Recommendations and Legislative Proposals	
1. AN ACT CONCERNING THE COLLECTION OF OVERDUE TRUCK PENALTIES AND ASSESSED TAXES AND THE CONSOLIDATION OF THE VARIOUS PROVISIONS CONCERNING OVERWEIGHT VEHICLES.....	24
2. AN ACT TO MAKE TECHNICAL CHANGES TO THE MOTOR VEHICLE LAWS AND OTHER LAWS CONCERNING THE DEPARTMENT OF TRANSPORTATION.....	30
3. AN ACT TO MAKE PERMANENT THE EXEMPTION FOR REAL ESTATE ACQUIRED BY THE DEPARTMENT OF TRANSPORTATION FROM THE REQUIREMENT THAT IT BE APPRAISED BY A LICENSED OR CERTIFIED APPRAISER WHEN THE ESTIMATED VALUE OF THE REAL ESTATE IS LESS THAN TEN THOUSAND DOLLARS.....	38
4. AN ACT TO EXEMPT THE DEPARTMENT OF TRANSPORTATION FROM THE REQUIREMENT OF MAKING QUARTERLY REPORTS OF MILEAGE OF STATE VEHICLES ASSIGNED TO THE DEPARTMENT AND TO ALLOW ASSIGNMENTS OF VEHICLES TO THE DEPARTMENT TO BE REVOKED ONLY WHEN THE DEPARTMENT CONSENTS.....	39
5. AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A TEMPORARY LICENSE PLATE THAT IS VALID FOR UP TO 60 DAYS.....	46
6. AN ACT TO INCREASE THE MINIMUM PROPERTY DAMAGE AMOUNT FOR A REPORTABLE MOTOR VEHICLE ACCIDENT AND TO RESOLVE INCONSISTENCIES IN THE LAW CONCERNING ACCIDENT REPORTS.....	49

7.	AN ACT TO REVISE THE PENALTIES FOR DRIVING A VEHICLE WITHOUT INSURANCE.....	60
8.	AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO SELL SOUVENIRS ON FERRIES AND AT FERRY FACILITIES.....	68
9.	AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERFORM DREDGING SERVICES FOR UNITS OF LOCAL GOVERNMENT.....	70
10.	AN ACT TO MAKE CONFIDENTIAL ALL PHOTOGRAPHIC IMAGES RECORDED BY THE DIVISION OF MOTOR VEHICLES FOR DRIVERS LICENSES.....	72

Subcommittee Reports

1.	Inmate Labor.....	76
2.	Motor Fuel Tax Evasion.....	84

Summary of Mandated Reports.....	90
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Appendix

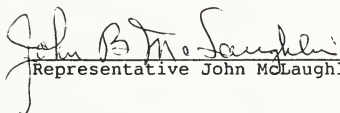
Revenue Update on Highway Fund.....	96
Status Report on Highway Trust Fund Projects.....	98

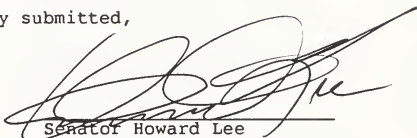
January 25, 1995

TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY

The Joint Legislative Transportation Oversight Committee submits its annual report to you for your consideration. The report was prepared by the Committee pursuant to G.S. 120-70.51(a).

Respectfully submitted,


Representative John McLaughlin


Senator Howard Lee

Co-Chairmen
Transportation Oversight Committee

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PREFACE

The Joint Legislative Transportation Oversight Committee was established in 1989 by Article 12E of Chapter 120 of the General Statutes. The Committee was formed in conjunction with the creation of the Highway Trust Fund. The Committee consists of 8 members of the Senate appointed by the President Pro Tempore of the Senate and 8 members of the House of Representatives appointed by the Speaker of the House of Representatives. Members serve two-year terms.

The Committee's oversight powers are broad as quoted from G.S. 120-70.51(a) below.

- o Review reports prepared by the Department of Transportation or any other agency of State government related, in any manner, to transportation, when those reports are required by law.
- o Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation.
- o Determine whether funds related, in any manner, to transportation are being spent in accordance with law.
- o Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation may be used, including revisions needed to meet any statutory timetable or program.
- o Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the funding or operation of programs related, in any manner, to transportation.

RESULTS OF
1994
LEGISLATIVE PROPOSALS

Report on Legislation
SUBMITTED BY THE COMMITTEE TO THE 1994 GENERAL ASSEMBLY

IN ITS REPORT DATED MAY 24, 1994, THE COMMITTEE RECOMMENDED THIRTEEN BILLS TO THE 1994 GENERAL ASSEMBLY. SEVEN OF THESE BILLS WERE ENACTED, AND THEY ARE SUMMARIZED BELOW.

EMISSIONS INSPECTIONS CHANGES (HB 1843; CHAPTER 754):
HOUSE BILL 1843 BRINGS THE STATE VEHICLE EMISSIONS INSPECTION PROGRAM INTO COMPLIANCE WITH FEDERAL LAW AND MAKES ADMINISTRATIVE AND TECHNICAL CHANGES TO BOTH THE EMISSIONS INSPECTION PROGRAM AND THE SAFETY INSPECTION PROGRAM TO ENABLE THE DIVISION OF MOTOR VEHICLES (DMV) OF THE DEPARTMENT OF TRANSPORTATION TO ADMINISTER THE PROGRAMS MORE EFFICIENTLY. MOST OF THE CHANGES BECOME EFFECTIVE OCTOBER 1, 1994; HOWEVER, THE COMPUTER MATCHING COMPONENT OF THE MOTORIST COMPLIANCE PROVISIONS BECAME EFFECTIVE UPON RATIFICATION AND THE REGISTRATION DENIAL COMPONENT OF THESE PROVISIONS BECOMES EFFECTIVE OCTOBER 1, 1996.

BEFORE THE ENACTMENT OF THIS BILL, NORTH CAROLINA WAS NOT IN COMPLIANCE WITH 40 C.F.R. PART 51, THE REGULATIONS ADOPTED BY THE FEDERAL ENVIRONMENTAL PROTECTION AGENCY (EPA) TO IMPLEMENT THE 1990 AMENDMENTS TO THE FEDERAL CLEAN AIR ACT, AND HAD NOT BEEN IN COMPLIANCE SINCE JANUARY 1, 1994. IF THE STATE HAD NOT CHANGED ITS LAW TO COMPLY WITH THESE REGULATIONS AND SUBMITTED TO EPA A STATE IMPLEMENTATION PLAN CONCERNING THE EMISSIONS PROGRAM, THE STATE COULD HAVE BEEN SANCTIONED FOR ITS FAILURE TO COMPLY.

THERE ARE TWO SANCTIONS FOR FAILURE TO COMPLY WITH 40 C.F.R. PART 51. THEY ARE THE WITHHOLDING OF FEDERAL HIGHWAY FUNDS, EXCEPT SAFETY FUNDS, IN THE EMISSION COUNTIES AND THE IMPOSITION OF A 2:1 OFFSET REQUIREMENT AS A CONDITION OF THE ISSUANCE OF A NEW AIR DISCHARGE PERMIT IN THE EMISSION COUNTIES. THE SANCTION CONCERNING FEDERAL HIGHWAY FUNDS CAN BE IMPOSED BY EPA ONLY IF THE UNITED STATES DEPARTMENT OF TRANSPORTATION CONCURS. THE OFFSET SANCTION CAN BE IMPOSED BY EPA WITHOUT THE CONCURRENCE OF ANY OTHER AGENCY. THE EMISSION COUNTIES ARE WAKE, DURHAM, ORANGE, GUILFORD, FORSYTH, MECKLENBURG, GASTON, CABARRUS, AND UNION.

THE CHANGES IN THE LAW ARE OUTLINED BELOW ACCORDING TO THE TYPE OF CHANGE.

Changes Needed To Comply With Federal Law

- (1) Establishment of a dedicated, nonreverting fund to provide revenue for the emissions inspection program: The bill amends G.S. 20-183.7 to create the Emissions Program Account and to shift from the Highway Fund to this Account the portion of the emissions inspection sticker fee that currently goes to the Highway Fund. The portion is \$1.80 of the \$2.40 fee. For fiscal year 1993-94, the \$1.80 is expected to generate \$2.8 million.
- (2) Establishment of a mechanism to deny or revoke the registration of a vehicle that fails to comply with the emissions inspection requirements: Section 9 of the bill establishes a temporary computer matching system to be in effect until October 1, 1996. Section 8 establishes an automatic registration denial system effective October 1, 1996. The two systems are included because automatic vehicle registration denial is the best method but it cannot be implemented until DMV's vehicle registration computer system is overhauled, which will not occur until October 1, 1996. Consequently, until then, a different system must be used.
- (3) Monetary penalties against vehicle owners who do not comply with the emissions inspection requirements: Federal law requires mandatory monetary penalties that constitute a meaningful deterrent. G.S. 20-183.8A, in Section 1 of the bill, imposes a civil penalty against vehicle owners in three circumstances -- failure to have a vehicle inspected within 4 months after its sticker expired, tampering with the emission control devices of a vehicle, or falsely registering a vehicle to avoid the emissions inspection requirements. The penalty is \$100 if the vehicle is a pre-1981 vehicle and is \$220 if the vehicle is a 1981 or newer model.
- (4) Monetary penalties against emissions license holders and suspension or revocation of an emissions license: Federal law requires a penalty schedule that imposes "swift, sure, effective, and consistent penalties" for violations of the emissions inspection procedures. The schedule must categorize and list

the penalties for first, secondary and subsequent violations, impose mandatory minimum \$100 penalties against an emissions mechanic for serious violations, and suspend the station's license and the mechanic's license for serious violations. G.S. 20-183.8B and 20-183.8C, in Section 1, establish the penalty schedule and list violations. The schedule categorizes violations into three types -- serious, minor, and technical -- and establishes penalties for first, second, third, and subsequent violations of each type of violation. The penalty for a first or second serious violation by a mechanic is \$100 and revocation of the license for 6 months. The penalty for a third or subsequent serious violation by a mechanic is \$250 and revocation of the license for 2 years. The penalties for a station are higher -- \$250 and \$1000 -- but the revocation period is the same. The penalties for minor and technical violations are scaled down accordingly.

- (5) Increased Licensing Requirements for Mechanics. -- Federal law requires inspector mechanics to be licensed, to pass an 8-hour emissions course to be licensed, to renew the license every 2 years, and to pass a 4-hour refresher course in order to renew. G.S. 20-183.4A and 20-183.4B, in Section 1, codify the current emissions licensing requirements that have been implemented through administrative practice and revise these requirements to meet the requirements of federal law.
- (6) Sticker Expiration Dates. -- Federal law requires a sticker issued for a vehicle whose inspection is overdue to become effective the day it would have become effective if the vehicle had been inspected in a timely way. G.S. 20-183.4D(d) makes this change.

Changes to Improve The Inspection Programs

- (1) Establishing a uniform time period for reinspection of a vehicle without payment of an inspection fee: G.S. 20-183.7, as amended by Section 1 of the bill, sets a 45-day period for both safety and emissions reinspections without charge. Prior law allowed 90 days for a reinspection without charge when a vehicle failed a safety inspection and 30 days when it failed

an emissions inspection. The bill changes both to 45 days to make the same time limit apply to both. Emissions repairs are no less complicated and time consuming than safety repairs, and the difference in these time periods added unnecessary complication to the program.

- (2) Elimination of one-way permits in favor of defenses to violations: Prior law authorized the Division to issue a one-way permit to drive a vehicle with an expired inspection sticker to a place to be inspected. These permits will typically issued for vehicles whose stickers had expired while the vehicles were in a state of disrepair and could not be driven. The bill eliminated the need for permits in these circumstances by making it a defense to a citation to drive a vehicle in these circumstances to be repaired. This eliminates the administrative time needed to issue the permit and the time spent by the motorist in trying to obtain a permit.
- (3) Administrative Hearing Time Limits: Prior law required administrative hearings on inspection violations to be held by the Commissioner within 10 days. This time limit was not met; persons requesting a hearing were asked to agree to waive the right to a hearing within the 10-day limit. The bill, in G.S. 20-183.8E of Section 1, eliminates the 10-day limit, establishes a 14-day limit for hearings on revocations or suspensions of an emissions license, and establishes a 90-day limit for all other inspection hearings. The 14-day limit is required by federal law.
- (4) Including Leased Federal Installations Within the Emissions Program: Federal law requires vehicles operated on federal installations that are within an emissions county and are owned by the federal government to be subject to an emissions inspection. The bill defines a federal installation to include property leased by the federal government as well as owned. This simplifies the program for federal installations and establishes a policy that does not vary depending on how the federal government chooses to provide property for its agencies. The method of providing property is unrelated to the emissions produced by vehicles and cannot be determined without investigation. The EPA complex in the Research Triangle, for example, is leased rather than owned.

- (5) Assessing emissions license holders a penalty of \$25 for each sticker that is missing: Prior law imposed no monetary penalties for missing stickers or any other inspection violations. This penalty is imposed to address the problem created by stickers that are "lost" by stations. DMV reported that it is not uncommon for an officer at DMV to find that a station has over 100 stickers missing and no plausible explanation of what happened to them.

Technical Changes

The bill makes numerous technical and clarifying changes. Most importantly, it clarifies which vehicles are subject to inspection, what the inspection entails, and who can perform the inspection. In making the clarifying changes, it codifies the current administrative practice concerning safety and emissions inspections and, except for the changes required by federal law, the requirements for various licenses.

The emissions program is a one-paragraph afterthought in the current law. This bill integrates the emissions requirements into the statutes and distinguishes between safety inspections and emissions inspections.

The bill also makes conforming changes and moves various provisions from one place to another. Section 2 renames the Article that contains the inspection programs from the "Motor Vehicle Law of 1947" to "Safety and Emissions Inspection Program" because there is nothing substantive left in the Article that was enacted in 1947. Section 3 repeals the remaining vestige of the 1947 act because the purposes stated in the repealed Part are no longer accompanied by statutes that implement the stated purposes.

Section 4 repeals G.S. 20-127(e) because it is incorporated in G.S. 20-183.3(a)(5) as amended in Section 1. Section 5 repeals G.S. 20-128.2(b) because it is incorporated in G.S. 20-183.3(b) as amended in Section 1. Section 6 moves from G.S. 20-183.2(a) and 20-183.8(c) to G.S. 20-384 the requirement that a motor carrier comply with the federal Motor Carrier Safety Regulations and the infraction for failure to do so.

DMV and DOT Technical Changes (SB 1579; Chapter 761): Senate Bill 1579 makes numerous technical, conforming, and administrative changes to the statutes concerning the Division of Motor Vehicles (DMV) and the Department of Transportation. The technical and conforming changes fix errors made in the 1993 Session, conform various criminal violations with structured sentencing, delete obsolete or redundant provisions, or move certain provisions out of the Motor Vehicle Chapter, Chapter 20, into more appropriate Chapters. The administrative changes give DMV discretion to stagger any type of vehicle registration, allow staggering to be done on a quarterly as well as monthly basis, eliminate the grace period for expired, staggered International Registration Plan registrations, and require DMV to put at least 50 copies of the driver license handbook in the clerk of court's office in each county.

Changes made by each section of the bill are summarized below. Significant substantive changes are explained in detail:

Section 1:

Chapter 285 of the 1993 Session Laws changed the alcohol concentration level required for a conviction of driving while impaired from 0.10 to 0.08. That Chapter failed to make a conforming change to G.S. 20-17, which lists the circumstances under which a driver's license is revoked for regular driving while impaired or commercial driving while impaired. This section makes the needed conforming change.

Section 1.1:

Ensures that free copies of the driver license handbook are available throughout the State.

Sections 2 and 3:

These two sections merge driving while license revoked, other than permanently, and driving while license permanently revoked because they are both Class 1 misdemeanors under the structured sentencing scheme enacted by Chapter 539 of the 1993 Session Laws. The punishment for a person who drives while a license is permanently revoked will be stiffer than for a person who drives with a license that is revoked for a period other than permanently because, to get to the point of having a permanently revoked license, a person must have at least two prior convictions of driving with a revoked license. These prior convictions will move the person into a higher prior conviction level.

Section 4:

Chapter 539 of the 1993 Session Laws classified misdemeanor offenses as Class 1, Class 2, or Class 3 misdemeanors so they would fit into the structured sentencing scheme enacted by Chapter 538 of the 1993 Session Laws. Section 324 of that act changed the "default" punishment for violations of Article 2, the drivers license article, of Chapter 20 of the General Statutes from a 6-month, \$500 misdemeanor to a Class 2 misdemeanor. The "default" punishment is the punishment that applies when the law does not specify any other punishment.

The changes left inaccurate provisions in subsection (a) of this section as well as an incomplete sentence in subsection (b) that, if corrected, would do nothing more than repeat subsection (a). This section corrects these problems by rewriting subsection (a) so that it applies to all offenses in Article 2 and deletes subsection (b). Current subsection (a) is inaccurate because it implies that Article 2 contains only felonies and Class 2 misdemeanors. The Article includes other classes of misdemeanors in addition to Class 2.

Section 5:

This section makes three administrative changes and two technical changes in staggered vehicle registrations. The administrative changes allow the Division to stagger the registration of any type of vehicle, allow staggered registrations to expire at the end of any periodic basis composed of one or more months, and eliminate the 15-day grace period for expired International Registration Plan (IRP) staggered registrations.

The technical changes eliminate subsections (d) and (e); subsection (d) is inaccurate and is replaced by the new language in (g), and Section 8 of this bill incorporates subsection (e) in amended G.S. 20-95. Registration plates, as opposed to renewal stickers, are all calendar-year plates and are not staggered.

Current law restricts staggered registration to the following vehicles: motorcycles, private passenger vehicles, U-drive-it passenger vehicles, property-hauling vehicles licensed for 4,000 pounds gross weight, vehicles registered under the International Registration Plan (IRP), and trailers. The Division currently renews the registration of all of these types of vehicles by sticker except those registered under the IRP and is planning to implement staggered IRP registration in 1995.

The Division's plan for staggered IRP registration contemplates staggering the registrations on a quarterly as opposed to a monthly basis because this schedule best accommodates the IRP vehicle owners. Current law, however, requires all staggered renewals to be done on a monthly basis so that an approximately equal number of vehicle registrations expire at the end of each month. This section removes the monthly limitation and allows the Division to stagger registrations for IRP vehicles and any other vehicles on a periodic basis. The Division is best able to determine the period that will spread the work out evenly.

The section also eliminates the 15-day grace period for expired, staggered IRP registrations. Under current law, it is lawful to drive a vehicle registered under the staggered system for 15 days after the registration renewal sticker expires. This change is made at the request of DMV.

Sections 6-34:

Make technical, clarifying and conforming changes to various sections of Chapter 20, the motor vehicles statutes.

Section 34.1:

This section makes a vehicle driven by a person who is convicted of habitual impaired driving subject to forfeiture in accordance with the procedure that applies to forfeiture of a vehicle driven by a person who is convicted of driving without a license and driving while impaired.

Section 35:

This section provides the effective dates for each section of the bill. Sections 1-4, 17, 20, 23, 26, and 34.1 become effective October 1, 1994; Sections 29-31 become effective February 1, 1995; the remaining sections became effective July 16, 1994.

Liability Insurance Proof Change (HB 1551; Chapter 595): House Bill 1551 eliminates the current requirement of North Carolina law that persons who are renewing their drivers license and must take the written test (due to conviction for a traffic violation within the proceeding four year period) show proof of liability insurance. The form showing proof of insurance is commonly referred to as the "DL-123." House Bill 1551 is expected to eliminate the need for 230,000 persons who are renewing their license each year, and must show proof of insurance due to a conviction for a traffic violation in the previous four years, to obtain and present the DL-123 form to

the Division of Motor Vehicles. The current requirements for proof of insurance upon initial issuance of a license, upon restoration of a license, or upon granting of a limited driving privilege are unaffected by this bill. House Bill 1551 becomes effective October 1, 1994.

Billboard Compensation Extended (SB 1425; Chapter 725): Senate Bill 1425 extends the requirement that just compensation be paid for removal by local authorities of billboards on Interstate and Federal-aid primary highways, as required by Federal law

In 1978, Congress amended the Federal Highway Beautification Act to require just compensation for removal by local governments of billboards lawfully erected under State law adjacent to an Interstate or Federal-aid primary highway (23 U.S.C. 131(g)).

To comply with this Federal directive, and avoid a potential loss of 10% of the State's Federal highway funds, in 1982 the General Assembly enacted G.S. 136-131.1. This section prohibits local governments from removing billboards lawfully erected under State law and adjacent to an Interstate and Federal-aid primary highway without the payment of just compensation.

G.S. 136-131.1 was originally given a sunset date of June 30, 1984, apparently in case the Federal law was subsequently repealed. The Federal law remained in effect, and G.S. 136-131.1 was, as a result, extended to June 30, 1988, and then to June 30, 1990, and finally to June 30, 1994.

Senate Bill 1425 extends the sunset date of G.S. 136-131.1 to June 30, 1998.

Uniform License & Registration Information (SB 1566; Chapter 750): Senate Bill 1566 makes several changes to the drivers license and special identification card laws. Most importantly, it enables the Division of Motor Vehicles (DMV) of the Department of Transportation to use the social security number of an individual as the identifying number for that individual in the drivers license records, the vehicle registration records, and the special identification card records of the Division. It does this by requiring an individual who applies for a drivers license, the registration of a vehicle, or a special identification card to include the

individual's social security number on the application. The bill authorizes but does not require DMV to use a social security number as the drivers license number that is printed on a drivers license.

The bill also allows race to be included on a drivers license, at the option of the licensee; makes anyone who is a resident of this State eligible for a special identification card, and delete the requirement that a test for an H (hazardous material) or X (tank) endorsement be written. Under current law, a person must be at least 11 years old and not have a drivers license in order to obtain a special identification card. The change concerning the test became effective July 15, 1994. The remaining changes become effective January 1, 1995.

DMV is in the process of establishing a new computer system for its drivers license, special ID, and vehicle registration records. Use of a unique social security number will enable DMV to cross-check information in these data bases. Currently, the drivers license and vehicle registration data bases do not use common identifiers and, consequently, cannot be used to cross-check information.

Under current law, an applicant for a regular drivers license, a special ID card, or a vehicle registration is not required to provide a social security number. An applicant for a commercial drivers license is required to provide a social security number. Approximately 33 states use social security numbers for identification in drivers license records.

The bill requires an application for a drivers license, a special ID card, or a vehicle registration to contain the disclosures concerning social security numbers that are required by federal law. Section 7 of the federal Privacy Act of 1974 (Pub. L. 93-579) requires a state that requests an individual to disclose his or her social security account number to inform the individual whether the disclosure is mandatory or voluntary, the statutory or other authority by which the number is requested, and the use that will be made of the number. That section also prohibits a state from denying a benefit to an individual based on the individual's failure to provide a social security number when requested to do so unless the request is required by "Federal statute" or is one of the pre-1975 grandfathered disclosures. The federal statutes, at 42 U.S.C. 405(c)(2)(C)(i), declare that it is the policy of the

United States to allow a state to use social security numbers in the administration of any "tax, general public assistance, driver's license, or motor vehicle registration law ... for the purpose of establishing the identification of individuals affected by such law."

Thus, federal law authorizes a state to deny a drivers license or vehicle registration to an individual based on the individual's failure to provide a social security number. An application for a license or vehicle registration, however, must contain a statement that the disclosure is mandatory, cite the appropriate statute, and state that the number will be used as the identifying number of the individual for drivers license or vehicle registration purposes, as appropriate. The federal law does not specifically refer to special identification cards. North Carolina considers these cards as part of its drivers license records, however, because a special ID card is an alternate to a drivers license as a form of official identification. Thus, the same exceptions that apply to drivers licenses also apply to special ID cards.

In adding the requirement of providing a social security number when applying for a drivers license, a special ID card, or a vehicle registration, the bill makes numerous technical changes. These changes are the reason why the bill is lengthy. The changes consolidate the application requirements for a license into one place in G.S. 20-7, delete duplicative application requirements from the special ID statute and the commercial drivers license statute, and consolidate the requirements for the kinds of information a drivers license must contain. The requirement that a person carry his or her drivers license when operating a vehicle is moved from G.S. 20-7(n) to G.S. 20-7(a). The requirement that an endorsement or restriction be noted on the face of a drivers license is moved from G.S. 20-7(c) and (e), respectively, to G.S. 20-7(n). The bill makes no changes in the information required to obtain a drivers license, a special ID card, or a vehicle registration other than the requirement of providing a social security number.

Single State Insurance Registration (HB 1619; Chapter 621): House Bill 1619 conforms the State law concerning the registration of certain interstate for-hire motor carriers to the requirements of federal law, clarifies the registration requirements that apply to intrastate for-hire motor carriers, and makes technical changes to the motor carrier registration laws. The changes became effective upon ratification, July 1, 1994.

The Intermodal Surface Transportation Act of 1991 amended 49 U.S.C. § 11506 by directing the federal Interstate Commerce Commission (ICC) to adopt regulations requiring states to implement a single-state registration system for interstate for-hire motor carriers that are regulated by the ICC. The ICC accordingly revised 49 C.F.R. Part 1023 to make the mandated changes. As revised, 49 C.F.R. Part 1023 required states to eliminate the bingo stamp method of registering ICC-regulated for-hire interstate motor carriers by December 31, 1993, and replace it with a single-state registration system that is similar to other multi-state registration systems such as the International Registration Plan and the International Fuel Tax Agreement.

The Division of Motor Vehicles of the Department of Transportation complied with the new federal law and, effective with the 1994 calendar year, switched to the single-state registration system. The North Carolina statutes, however, have not been changed and therefore conflict with both federal law and administrative practice. Sections 1 and 4 of this bill rewrite the appropriate statutes to resolve these conflicts.

Section 1 establishes the single-state registration method for for-hire motor carriers that are regulated by the ICC and retains the bingo stamp method for interstate motor carriers that are not regulated by the ICC. The difference in these two methods is described below.

Section 4 revises the fee schedule for registration of interstate for-hire motor carriers to eliminate fees the State is prohibited by federal law from collecting. Federal law prohibits a state from collecting a fee from an ICC-regulated interstate for-hire motor carrier for filing with the state a copy of the carrier's ICC certificate of authority or an amendment to that certificate. Accordingly, Section 4 eliminates the current \$25 fee on these carriers for filing a copy of their ICC certificate of authority and the \$5 fee for filing an amendment to the certificate.

Federal law also requires the State to waive collection of the \$1 vehicle registration fee if it had a reciprocal agreement with another state on November 15, 1991, that required it to do so. Accordingly, Section 4 lists the states with which North Carolina had reciprocal agreements as of that date.

Both the bingo stamp method and the single-state method of registering interstate motor carriers are means to ensure that for-hire motor vehicles operated in interstate commerce in North Carolina are insured. Under the bingo stamp method, the motor carrier applies to each state in which a vehicle will be driven for an identification stamp that is specific to the vehicle. To obtain the stamp, the carrier must prove that the carrier has insurance on the vehicle and that the insurance meets the state's requirements for insurance coverage. The carrier places each stamp on a card that resembles a bingo card. The card has a blank for a stamp from each state. The carrier then puts the card with the stamps in the motor vehicle for which the stamps were issued. The driver of the motor vehicle must display the card to a law enforcement officer when requested to do so.

Under the single-state method, the states choose whether or not to be a participating state and each motor carrier selects one of the participating states as its registration state. The state selected must be the carrier's principal place of business or the state in which it will operate the largest number of vehicles. North Carolina has chosen to be a participating state. Therefore, each motor carrier whose principal place of business is in North Carolina and each motor carrier whose principal place of business is in a non-participating state and whose operations are largely in North Carolina must choose North Carolina as its single registration state. North Carolina's role as the single registration state for a motor carrier is to register the vehicles the carrier will operate in any state during a calendar year, collect the fees that apply to each state in which a vehicle will be operated, and issue a receipt to the carrier showing the total number of vehicles the carrier has registered for each state.

To obtain a receipt, a carrier must prove that it has a certificate of authority issued by the ICC. The certificate of authority is proof that the carrier has adequate insurance; a state may not demand more coverage than is required to obtain an ICC certificate of authority. The carrier must put a copy of the receipt in each of the carrier's vehicles. Like its bingo stamp predecessor, the receipt must be shown to a law enforcement officer upon request. Unlike its bingo stamp predecessor, the receipt is not specific to a vehicle, thereby enabling a carrier to replace vehicles or swap them without applying for a new receipt.

The switch to a single-state method for ICC-regulated interstate for-hire motor carriers completely changes the registration system for these vehicles. The Division of Motor Vehicles will register vehicles to be operated in any jurisdiction for motor carriers who select North Carolina as their registration state and will not register any vehicles to be operated in the State by motor carriers whose registration state is a state other than North Carolina. In addition, as required by federal law, the application period for registration and the period in which a registration is valid differs from the bingo stamp method. The application period for the single-state system is August 1 to November 30, and the application period for the bingo stamp method is October 1 through January 31. A registration issued under the single-state system expires on December 31, and a registration issued under the bingo stamp method expires February 1.

In addition to rewriting the statutes to incorporate the single-state method, the bill clarifies the registration requirements of intrastate motor carriers, makes the current penalty for violations by interstate motor carriers applicable to intrastate motor carriers as well, and makes technical changes. The State statutes do not address the registration of intrastate motor carriers even though the Division of Motor Vehicles currently requires the carriers to both register their operations with the State and verify that their vehicles are insured. Section 2 of the bill codifies the current administrative practice on this subject.

Section 3 moves the penalty provisions in G.S. 20-382(d) that apply to interstate motor carriers to a new statute and includes intrastate motor carriers within its scope. The existing penalty was subject to legal challenge on the basis of both equal protection and the federal commerce clause.

The bill makes numerous technical changes to make the wording of the statutes consistent, to eliminate confusion, and to eliminate unnecessary provisions. Section 5 of the bill is part of the technical changes. It deletes definitions in G.S. 20-386 that either duplicate the definitions in G.S. 20-4.01 or are not used in the Article. The definitions in G.S. 20-386(6), (11), (17), and (20) are also in G.S. 20-4.01, which applies to every statute in Chapter 20. The definitions in G.S. 20-386(3), (10), (12), (18), and (22) are not used in the Article and are therefore unnecessary.

TRAC Lease Clarified (SB 1628; Chapter 756): Senate Bill 1628 amends the Uniform Commercial Code to clarify that a motor vehicle operating lease that contains a terminal rental adjustment clause is legally considered to be a lease and not a sale nor a security interest. A terminal rental adjustment clause permits an adjustment of rent either upwards or downwards at the end of the lease based on the difference at the end of the lease between the expected value of the vehicle and its actual value. The bill amends the definition of a lease under G.S. 25-2A-103(1)(j) by including in the definition a motor vehicle operation agreement that is considered a lease under Section 7701(h) of the Internal Revenue Code. Senate Bill 1628 became effective upon ratification, July 15, 1994.

Remove DOT Appraisal Sunset (HB 1552; Chapter 691): Section 1 of Chapter 519 of the 1993 Session Laws exempts, until July 1, 1994, the Department of Transportation from the requirement that real property acquired by the Department be appraised by a licensed or certified appraiser, if the estimated value of the real estate is less than ten thousand dollars. House Bill 1552 extends the expiration date of this exemption from July 1, 1994 to July 1, 1995. House Bill 1552 became effective upon ratification, July 6, 1994.

**COMMITTEE
PROCEEDINGS**

COMMITTEE PROCEEDINGS

Following the 1994 Regular Session, the Joint Legislative Transportation Oversight Committee met four times from October 1994 to January 1995. The Committee examined a variety of topics, which are briefly summarized below.

October 5, 1994

The first meeting of the Committee following the 1994 Regular Session was held on October 5, 1994 in Raleigh. This meeting was primarily dedicated to an examination of the impact of highways on wetlands, and the federal and state law and rules that govern that impact.

The topic of wetlands and highways came to the Committee's attention following a disagreement between the N.C. Department of Transportation (NCDOT) and the N.C. Department of Environment, Health and Natural Resources (DEHNR) over proposed state wetlands rules. The proposed rules were scheduled to be reviewed in a series of public hearings in September, 1994. The hearings were cancelled, and the rule-making put on hold after NCDOT objected to the estimated fiscal impact of the rule on NCDOT construction and maintenance projects.

In order to understand the issues affecting the NCDOT-DEHNR disagreement, the Committee scheduled a comprehensive examination of the issue at its October meeting.

The Committee first heard a description of wetlands and a summary of federal wetlands regulation from Wayne Wright, Chief of the Regulatory Branch, U.S. Army Corps of Engineers, Wilmington District. He explained that §404 of the Federal Clean Water Act gives the Corps responsibility for issuing permits for activities that involve the discharge of dredge and fill materials in the waters of the U.S., which include adjacent wetlands. When NCDOT proposes to construct a highway project that will affect such a wetland, they must receive a federal §404 permit.

The Committee next heard from Ron Ferrell of the Division of Emergency Management (DEM), DEHNR. He explained that the State is involved in wetlands regulation under §401 of the Clean Water Act, which requires that activities that involve dredge and fill not cause a violation of State water quality standards. To fulfill the requirements of §401, DEM issues §401 certification on highway projects requiring a §404 permit.

Next, the Committee heard from Dan Bessie of the Environment Management Commission, who explained the rule proposed by the Commission which was the source of the disagreement between DEM and NCDOT. The proposed rule would change the State \$401 certification process by establishing classification of State wetlands, and by more clearly defining the State's \$401 water quality certification process.

Following Mr. Bessie, State Highway Administrator Larry Goode explained that, in NCDOT's view, the proposed rule was unnecessary and would increase costs and delay in highway construction and maintenance projects. Mr. Goode also briefly reviewed NCDOT's efforts to mitigate the effects of its projects on wetlands.

At the end of the wetlands discussion, Cochairman McLaughlin suggested the Governor might want to help the Departments resolve their dispute over the proposed rule and its fiscal impact. Soon after the meeting, each Department agreed to a new estimate on the fiscal impact of the proposed rule, and the normal rulemaking procedure continued.

Following the wetlands presentation, the Committee heard a update on DMV's Exhaust Emissions Program from Major John Robinson of the Division.

November 2, 1994

The Committee's second fall meeting was held on November 2, 1994 in Raleigh. The Committee first heard a presentation on federal enhancement funding. Dale McKeel of Scenic N.C. made suggestions for changing how enhancement funds are allocated and managed, and Larry Goode, State Highway Administrator, answered additional questions about the use of these funds. Next, Wayne Stallings of NCDOT commented on NCDOT fund reserves. C.A. Gardner of NCDOT presented a report on plastic pipe and adjustable manhole covers. Following these reports, the Committee turned to the issue of fuel tax evasion, and heard reports from Fred Aikens of NCDOT and Jack Harper of the Department of Revenue. No action was taken on these reports. The Committee then discussed the work of its own fuel tax evasion subcommittee, and the report of the subcommittee was adopted. (see more detailed discussion on page *). Next, Curtis Yates of NCDOT gave a report on the NCDOT Bicycle program. He was followed by Richard Bostic, who presented

funding options for the bicycle and pedestrian program. Following this report, Representative Hunter gave an update on the inmate labor subcommittee, and Duane Smith of DMV presented an update on DMV's computer system. Larry Goode, State Highway Administrator, then gave an update on the resolution of the NCDOT/DEM wetlands fiscal note dispute, and on the congestion avoidance and reduction (CARAT) project. The final report of the meeting was an update on the NCDOT minority business enterprise program, given by C.A. Gardner of NCDOT.

December 7, 1994

The third fall meeting of the Committee was held on December 7, 1994 in Raleigh. The Committee first heard a report on a draft bill being considered by the Revenue Laws Study Committee to move the point of taxation on motor fuels to the rack. Next, Fred Aikens of NCDOT reported on alternatives for collection of fuel tax on diesel, and gave an update on the fuel tax evasion program, with additional comments by Jack Harper of the Dept. of Revenue. The Committee next considered three DMV legislative proposals: (1) civil penalty in lieu of registration plate revocation; (2) authorization of DMV to issue temporary plates for up to 60 days; and (3) a change to the minimum property damage required for reporting a collision. The Committee asked for draft legislation on these topics to be prepared for the January meeting. Following this discussion, the Committee heard a report from DMV on revenues associated with the minimum use tax.

January 11, 1995

At its final meeting before the convening of the 1995 General Assembly, the Committee discussed and approved the proposed legislation included later in this report. The Committee declined to take any action on a proposed bill to transfer the State Ports Authority to DOT. Following discussion of proposed legislation, the Committee heard a report from the Inmate Labor Subcommittee, discussed digitized drivers license photographs, and received and discussed reports on: DOT mowing contracts, the Adopt-a-Highway program, and DMV's emission inspection program.

The Committee also reviewed a draft of this Committee report, and voted to approve its transmittal to the members of the 1995 General Assembly.

RECOMMENDATIONS
&
LEGISLATIVE PROPOSALS

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 1 (95-LJZ-12(1.2))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Overdue Truck Penalties & Taxes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

A BILL TO BE ENTITLED

AN ACT CONCERNING THE COLLECTION OF OVERDUE TRUCK PENALTIES AND
ASSESSED TAXES AND THE CONSOLIDATION OF THE VARIOUS PROVISIONS
CONCERNING OVERWEIGHT VEHICLES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-88 is amended by adding a new
subsection to read:

"(k) A person may not drive a vehicle on a highway if the
vehicle's gross weight exceeds its declared gross weight. A
vehicle driven in violation of this subsection is subject to the
axle-group weight penalties set in G.S. 20-118(e). The penalties
apply to the amount by which the vehicle's gross weight exceeds
its declared weight."

Sec. 2. G.S. 20-96 reads as rewritten:

"§ 20-96. ~~Overloading.~~ Collection of overdue penalties and
taxes.

~~It is the intent of this section that every owner of a motor
vehicle shall procure license in advance to cover the empty
weight and maximum load which may be carried. Any owner failing
to do so, and whose vehicle shall be found in operation on the
highway over the weight for which such vehicle is licensed, shall
pay the penalties prescribed in G.S. 20-118(e)(3). Nonresidents
operating under the provisions of G.S. 20-83 shall be subject to
the additional tax provided in this section when their vehicles~~

~~1 are operated in excess of the licensed weight or, regardless of
2 the licensed weight, in excess of the maximum weight provided for
3 in G.S. 20-118. Any resident or nonresident owner of a vehicle
4 that is found in operation on a highway designated by the Board
5 of Transportation as a light traffic highway, and along which
6 signs are posted showing the maximum legal weight on said highway
7 with a load in excess of the weight posted for said highway,
8 shall be subject to the penalties provided in G.S. 20-118(e)(1).
9 Any person who shall willfully violate the provisions of this
10 section shall be guilty of a Class 2 misdemeanor in addition to
11 being liable for the additional tax herein prescribed.~~

~~12 Any peace A law enforcement officer who discovers that a
13 property-hauling vehicle used for the transportation of property
14 is being operated on the highways with an overload as described
15 in this section or which is equipped with improper registration
16 plates, or the owner of which is liable for any overload
17 penalties or assessments applicable to the vehicle and due and
18 unpaid for more than 30 days, is hereby authorized to seize said
19 property-hauling vehicle and hold the same until the overload has
20 been removed or proper registration plates therefor have been
21 secured and attached thereto and the penalties owed under this
22 section and G.S. 20-118.3 have been paid. Any peace officer
23 seizing a property-hauling vehicle under this provision, may,
24 when necessary, store said vehicle and the owner thereof shall be
25 responsible for all reasonable storage charges thereon. When any
26 property-hauling vehicle is seized, held, unloaded or partially
27 unloaded under this provision, the load or any part thereof shall
28 be cared for by the owner or operator of the vehicle without any
29 liability on the part of the officer or of the State or any
30 municipality because of damage to or loss of such load or any
31 part thereof. and that the owner of the vehicle is more than 30
32 days delinquent in paying any of the following may detain the
33 vehicle:~~

- ~~34 (1) A penalty previously assessed under this Chapter~~
~~35 against the owner for a violation attributable to~~
~~36 the failure of a vehicle to comply with this~~
~~37 Chapter.~~
- ~~38 (2) A tax or penalty previously assessed against the~~
~~39 owner under Article 36B of Chapter 105 of the~~
~~40 General Statutes.~~

~~41 The officer may detain the vehicle until the delinquent~~
~~42 penalties and taxes are paid. When necessary, an officer that~~
~~43 detains a vehicle under this section may have the vehicle stored.~~
~~44 The owner of a vehicle that is detained or stored under this~~

1 section is responsible for the care of any property being hauled
2 by the vehicle and for any storage charges. The State is not
3 liable for damage to or loss of the property being hauled."

4 Sec. 3. G.S. 20-118(e)(3) reads as rewritten:

5 "(3) Except as provided in subdivision (4) of this
6 subsection, for a violation of an axle-group weight
7 limit set in subdivision (b)(3) or (b)(4) of this
8 section, the Department of Transportation shall
9 assess a civil penalty against the owner or
10 registrant of the motor vehicle in accordance with
11 the following schedule: for the first 2,000 pounds
12 or any part thereof, two cents (2¢) per pound; for
13 the next 3,000 pounds or any part thereof, four
14 cents (4¢) per pound; for each pound in excess of
15 5,000 pounds, ten cents (10¢) per pound. These
16 penalties apply separately to each axle-group
17 weight limit violated. The penalty shall be
18 assessed on each pound of weight in excess of the
19 maximum permitted."

20 Sec. 4. G.S. 20-118.1 reads as rewritten:

21 "~~§ 20-118.1. Peace officer may weigh vehicle and require removal~~
22 ~~of excess load; refusal to permit weighing. Officers may weigh~~
23 ~~vehicles and require overloads to be removed.~~

24 ~~Any peace officer having reason to believe that the weight of a~~
25 ~~vehicle and load is unlawful is authorized to weigh the same~~
26 ~~either by means of North Carolina Department of Transportation~~
27 ~~portable or stationary scales, and may require that such vehicle~~
28 ~~be driven to the nearest North Carolina Department of~~
29 ~~Transportation stationary scales or stationary scales approved by~~
30 ~~the North Carolina Department of Agriculture in the event such~~
31 ~~scales are within five miles. The officer may then require the~~
32 ~~driver to unload immediately such portion of the load as may be~~
33 ~~necessary to decrease the gross weight of such vehicle to the~~
34 ~~maximum therefor specified in this Article. All material so~~
35 ~~unloaded shall be cared for by the owner or operator of such~~
36 ~~vehicle at the risk of such owner or operator. Any person who~~
37 ~~refuses to permit a vehicle being operated by him to be weighed~~
38 ~~as in this section provided or who refuses to drive said vehicle~~
39 ~~upon the scales provided for weighing for the purpose of being~~
40 ~~weighed, shall be guilty of a Class 2 misdemeanor. No vehicle~~
41 ~~more than two miles from a North Carolina Department of~~
42 ~~Transportation stationary scales may be required to be driven to~~
43 ~~such scales unless the peace officer knows or reasonably suspects~~

1 ~~the vehicle has driven so as to avoid being weighed at the~~
2 ~~scales.~~

3 A law enforcement officer may stop and weigh a vehicle to
4 determine if the vehicle's weight is in compliance with the
5 vehicle's declared gross weight and the weight limits set in this
6 Part. The officer may require the driver of the vehicle to drive
7 to a scale located within five miles of where the officer stopped
8 the vehicle.

9 If the vehicle's weight exceeds the amount allowable, the
10 officer may detain the vehicle until the overload has been
11 removed. Any property removed from a vehicle because the vehicle
12 was overloaded is the responsibility of the owner or operator of
13 the vehicle. The State is not liable for damage to or loss of
14 the removed property.

15 Failure to permit a vehicle to be weighed or to remove an
16 overload is a misdemeanor of the Class set in G.S. 20-176. An
17 officer must weigh a vehicle with a scale that has been approved
18 by the Department of Agriculture."

19 Sec. 5. G.S. 20-183.11 is repealed.

20 Sec. 6. This act is effective upon ratification.

Explanation of Proposal 1
Overdue Truck Penalties & Taxes

This proposal clarifies the current law concerning the authority of law enforcement officers to detain a truck until any delinquent penalties or taxes previously assessed against the truck's owner for motor carrier vehicle violations or motor carrier taxes have been paid. It also consolidates the various provisions concerning the weighing of trucks and eliminates inconsistencies in these provisions. The proposal is effective upon ratification.

Law enforcement officers of the Division of Motor Vehicles (DMV) currently detain a truck when they find that the owner of the truck has previously been assessed a penalty for a motor carrier vehicle violation and payment of the penalty is overdue. Penalties are due upon assessment and become delinquent 30 days after the date of assessment. Motor carrier vehicle violations include registration, equipment, and overweight violations.

Similarly, the officers detain a truck when they find that the owner of the truck is delinquent in paying motor carrier road taxes due under Article 36B of Chapter 105 of the General Statutes. When the fuel tax evasion plan of the Department of Transportation is implemented, the officers will have better information on delinquent taxpayers and will be able to use this authority to collect the delinquent taxes.

The statutes that give DMV law enforcement officers the authority to detain trucks is arguably not as broad as the current practice. G.S. 20-96 authorizes the detention of a truck when the owner "is liable for any overload penalties or assessments applicable to the vehicle and due and unpaid for more than 30 days." This language can be construed to mean that overdue overweight penalties are the only penalties or assessments for which a vehicle can be detained and then only if the overdue overweight penalty was previously assessed against the same truck rather than any truck of the owner. This proposal rewrites this language to make it clear that the authority applies to all truck violations and to motor carrier taxes. The fuel tax evasion plan of the Department of Transportation will not be effective if DMV's authority to detain trucks does not include the authority to detain for delinquent motor carrier taxes.

Section 1 adds to G.S. 20-88 a provision that is currently in G.S. 20-96 and is deleted from that statute as it is rewritten by Section 2 of the proposal. The provision transferred from G.S. 20-96 to 20-88 is the prohibition on driving in excess of declared weight.

Section 2 rewrites G.S. 20-96 to make the clarifications described above. In doing so, it removes parts of that statute that are more appropriately placed in other statutes and resolves inconsistencies in the statute. It removes the prohibition on driving in excess of declared weight, which is incorporated in G.S. 20-88. It also removes the statement of the penalties that apply to overweights on light-traffic roads, which is incorporated in G.S. 20-118(e)(3), as rewritten by Section 3 of this proposal. Finally, it removes provisions on weighing trucks because these provisions are incorporated in G.S. 20-118.1, as rewritten by Section 4 of the proposal.

Current G.S. 20-96 has several inconsistencies. First, it states that overweights are subject only to axle-group penalties, and not single-axle or tandem-axle. This conflicts with G.S. 20-118. Second, it states that overweights on light-traffic roads are subject only to single-axle or tandem-axle penalties, and not axle-group. This also conflicts with G.S. 20-118. Third, it refers to a tax imposed by the section, but that section does not impose a tax. The "tax" reference is to a tax that was repealed many years ago.

Section 3 incorporates the penalty amounts for overweight violations on light-traffic roads into G.S. 20-118, the statute that deals with overweights.

Section 4 rewrites 20-118.1 to consolidate in that statute the various provisions on weighing trucks that are now found in that statute and in G.S. 20-96 and G.S. 20-183.11.

Section 5 repeals G.S. 20-183.11 because its provisions have been incorporated into G.S. 20-118.1, as rewritten by Section 4 of the bill.

Section 6 makes the proposal effective upon ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 2 (95-LJZ-11(1.3))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DMV/DOT Technical Changes.

(Public)

Sponsors: Transportation Oversight Committee.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO THE MOTOR VEHICLE LAWS AND
OTHER LAWS CONCERNING THE DEPARTMENT OF TRANSPORTATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-16.2(a) reads as rewritten:

"(a) Basis for Charging Officer to Require Chemical Analysis;
Notification of Rights. -- Any person who drives a vehicle on a
highway or public vehicular area thereby gives consent to a
chemical analysis if charged with an implied-consent offense.
The charging officer must designate the type of chemical analysis
to be administered, and it may be administered when the officer
has reasonable grounds to believe that the person charged has
committed the implied-consent offense.

Except as provided in this subsection or subsection (b), before
any type of chemical analysis is administered the person charged
must be taken before a chemical analyst authorized to administer
a test of a person's breath, who must inform the person orally
and also give the person a notice in writing that:

- (1) He has a right to refuse to be tested.
- (2) Refusal to take any required test or tests will
result in an immediate revocation of his driving
privilege for at least 10 days and an additional
12-month revocation by the Division of Motor
Vehicles.

- (3) The test results, or the fact of his refusal, will be admissible in evidence at trial on the offense charged.
- (4) His driving privilege will be revoked immediately for at least 10 days if:
- The test reveals an alcohol concentration of 0.08 or more; or
 - He was driving a commercial motor vehicle and the test reveals an alcohol concentration of 0.04 or more.
- (5) He may have a qualified person of his own choosing administer a chemical test or tests in addition to any test administered at the direction of the charging officer.
- (6) He has the right to call an attorney and select a witness to view for him the testing procedures, but the testing may not be delayed for these purposes longer than 30 minutes from the time he is notified of his rights.

If the charging officer or an arresting officer is authorized to administer a chemical analysis of a person's ~~breath and the charging officer designates a chemical analysis of the blood of the person charged, breath~~, the charging officer or the arresting officer may give the person charged the oral and written notice of rights required by this subsection. This authority applies regardless of the type of chemical analysis designated."

Sec. 2. G.S. 20-79.7(b) reads as rewritten:

"(b) Distribution of Fees. -- The Special Registration Plate Account and the Collegiate and Cultural Attraction Plate Account are established within the Highway Fund. The Division must credit the additional fee imposed for the special registration plates listed in subsection (a) among the Special Registration Plate Account (SRPA), the Collegiate and Cultural Attraction Plate Account (CCAPA), and the ~~Recreation and~~ Natural Heritage Trust Fund ~~(RNHTF)~~, (NHTF), which is established under G.S. 113-77.7, as follows:

<u>Special Plate</u>	<u>SRPA</u>	<u>CCAPA</u>	<u>RNHTF</u>	<u>NHTF</u>
Historical Attraction	\$10	\$20		0
In-State Collegiate Insignia	\$10	\$15		0
Out-of-state Collegiate Insignia	\$10	0	\$15	
Personalized	\$10	0	\$10	
Special Olympics	\$10	\$15		0
State Attraction	\$10	\$20		0
Wildlife Resources	\$10	\$10		0

1 All other Special Plates \$10 0 0."

2 Sec. 3. G.S. 20-82 is repealed.

3 Sec. 4. G.S. 20-297 reads as rewritten:

4 "~~\$ 20-297. Inspection of records, etc.~~ Retention and inspection
5 of certain records.

6 (a) Vehicles. -- A dealer must keep a record of all vehicles
7 received by the dealer and all vehicles sold by the dealer. The
8 records must contain the information the Division requires.

9 (b) Inspection. -- The Division may inspect the pertinent
10 books, records, ~~letters~~ letters, and contracts of a licensee
11 relating to any written complaint made to ~~him against such the~~
12 Division against the licensee."

13 Sec. 5. G.S. 20-88(f) is repealed.

14 Sec. 6. G.S. 20-135.2B(b) reads as rewritten:

15 "(b) Subsection (a) of this section ~~shall not apply when:~~ does
16 not apply in any of the following circumstances:

- 17 (1) An adult is present in the bed or cargo area of the
18 vehicle and is supervising the ~~child;~~ child.
- 19 (2) The child is secured or restrained by a seat belt
20 manufactured in compliance with Federal Motor
21 Vehicle Safety Standard No. 208, installed to
22 support a load strength of not less than 5,000
23 pounds for each belt, and of a type approved by the
24 ~~Commissioner;~~ Commissioner.
- 25 (3) An emergency situation ~~exists;~~ exists.
- 26 (4) The vehicle is being operated in a parade pursuant
27 to a valid permit.
- 28 (5) The vehicle is being operated in an agricultural
29 ~~enterprise; or enterprise.~~
- 30 (6) ~~the The~~ vehicle is being operated in a county ~~which~~
31 that has no incorporated area with a population in
32 excess of 3,500."

33 Sec. 7. G.S. 20-141.3(a) reads as rewritten:

34 "(a) It shall be unlawful for any person to operate a motor
35 vehicle on a street or highway willfully in prearranged speed
36 competition with another motor vehicle. Any person violating the
37 provisions of this subsection shall be guilty of a Class ~~2~~ 1
38 misdemeanor."

39 Sec. 8. G.S. 20-141.3(b) reads as rewritten:

40 "(b) It shall be unlawful for any person to operate a motor
41 vehicle on a street or highway willfully in speed competition
42 with another motor vehicle. Any person willfully violating the
43 provisions of this subsection shall be guilty of a Class ~~1~~ 2
44 misdemeanor."

1 Sec. 9. G.S. 20-183.2(b)(5) reads as rewritten:

2 "(b) Emissions. -- A motor vehicle is subject to an emissions
3 inspection in accordance with this Part if it meets all of the
4 following requirements:

5 (1) It is subject to registration with the Division
6 under Article 3 of this Chapter.

7 (2) It is not a trailer whose gross weight is less than
8 4,000 pounds, a house trailer, or a motorcycle.

9 (3) It is a 1975 or later model.

10 (4) It is powered or designed so that it could be
11 powered by gasoline.

12 (5) It meets any of the following descriptions:

13 a. It is required to be registered in an
14 emissions county.

15 b. It is part of a fleet that is operated
16 primarily in an emissions county.

17 c. It is offered for rent in an emissions county.

18 d. It is offered for sale by a dealer in an
19 emissions ~~county~~ county and is not a new
20 vehicle that has not been titled.

21 e. It is operated on a federal installation
22 located in an emissions county and it is not a
23 tactical military vehicle. Vehicles operated
24 on a federal installation include those that
25 are owned or leased by employees of the
26 installation and are used to commute to the
27 installation and those owned or operated by
28 the federal agency that conducts business at
29 the installation.

30 f. It is otherwise required by 40 C.F.R. Part 51
31 to be subject to an emissions inspection."

32 Sec. 10. G.S. 20-183.8C(c) reads as rewritten:

33 "(c) Type III. -- It is a Type III violation for an emissions
34 self-inspector, an emissions inspection station, or an emissions
35 inspection mechanic to do any of the following:

36 (1) Fail to post an emissions license issued by the
37 Division.

38 (2) Fail to send information on emissions inspections
39 to the Division at the time or in the form required
40 by the Division."

41 Sec. 11. G.S. 20-183.11 is repealed.

42 Sec. 12. G.S. 20-183.12 is repealed.

43 Sec. 13. G.S. 20-305(5)b.6. reads as rewritten:

"6. Whether the establishment of an additional new motor vehicle dealer or relocation of an existing new motor vehicle dealer in the relevant market area would increase competition in a manner such as to be in the long-term public interest; and".

Sec. 14. G.S 136-66.1(4) reads as rewritten:

"(4) If the governing body of any municipality ~~shall determine~~ determines that it is in the best interest of its citizens to do so, it may expend its funds for the purpose of making any of the following improvements on streets that are within its corporate limits ~~which~~ and form a part of the State highway system:

- a. Construction of curbing and ~~guttering,~~ guttering.
- b. Adding of lanes for automobile ~~parking,~~ parking.
- c. Constructing street drainage facilities which may by reasonable engineering estimates be attributable to that amount of surface water collected upon and flowing from municipal streets which do not form a part of the State highway ~~system,~~ system.
- d. Constructing sidewalks.
- e. Intersection improvements, if the governing body determines that such improvements will decrease traffic congestion, improve safety conditions, and improve air quality.

In exercising the authority granted herein, the municipality may, with the consent of the Department of Transportation, perform the work itself, or it may enter into a contract with the Department of Transportation to perform such work. Any work authorized by this subdivision shall be financed entirely by the municipality and be approved by the Department of Transportation.

The cost of any work financed by a municipality pursuant to this subdivision may be assessed against the properties abutting the street or highway upon which such work was performed in accordance with the procedures of either Article 10 of Chapter 160A of the General Statutes or any

1 charter provisions or local acts applicable to the
2 particular municipality."

3 Sec. 15. G.S. 136-92 reads as rewritten:

4 "\$ 136-92. Obstructing highway drains ~~misdemeanor~~, prohibited.

5 ~~Any person who shall obstruct any drains~~ It is unlawful to
6 obstruct a drain along or leading from any public road in the
7 State shall be guilty of a Class 3 misdemeanor, and punished only
8 by a fine of not less than ten (\$10.00) nor more than one hundred
9 dollars (\$100.00). State. A person who violates this section is
10 responsible for an infraction."

11 Sec. 16. Sections 7, 8, and 15 of this act become
12 effective July 1, 1995, and apply to offenses occurring on or
13 after that date. The remainder of this act is effective upon
14 ratification.

Explanation of Proposal 2
DMV/DOT Technical Changes

This proposal makes a number of unrelated technical changes to Chapters 20 and 136 of the General Statutes. Each technical change is described below by section:

<u>Section</u>	<u>Explanation</u>
1	Clarifies that the officer who gives a breathalyzer test to a person can read the person his or her rights. Section 233.1 of Chapter 689 of the 1991 Session Laws amended G.S. 20-139.1(b1) to allow the arresting or charging officer to give a breathalyzer. This section makes a conforming change to a related statute.
2	Corrects a cross-reference to the Natural Heritage Trust Fund. Chapter 772 of the 1993 Session Laws (1994 Reg. Sess.) changed the name of the Recreation and Natural Heritage Trust Fund to the Natural Heritage Trust Fund.
3, 4	Move the requirement that vehicle dealers keep certain records from the Article on special registration plates to the Article on vehicle dealers. Currently, the provision is in the wrong place. Before the vehicle dealer Article was enacted, the provisions on dealers were in Article 3 of Chapter 20. Since the enactment in 1955 of Article 12 of Chapter 20, the dealer provisions have slowly been moved to Article 12. The provision on dealer records is the last vestige in Part 5 of Article 3 of the former arrangement of the dealer laws.
5	Repeals a subsection that describes the application of a tax that has been repealed. The section is therefore obsolete. The registration of nonresident property-hauling vehicles is governed by the International Registration Plan.
6	Corrects punctuation.
7, 8	Correct an error made in the structured sentencing legislation (Sections 366 and 367 of Chapter 539 of the 1993 Session Laws). That legislation inadvertently reversed the punishments for prearranged racing and non-prearranged racing. As reversed, the punishment for prearranged racing is less than the punishment for non-prearranged racing.

- 9 Clarifies that new vehicles that have never been titled are not subject to the emissions inspection requirement. This change reflects the current practice, which is to subject these vehicles to a safety but not an emissions inspection. An opinion by the Attorney General's office supports this practice.
- 10 Inserts the missing word "do" in an emissions penalty statute.
- 11, 12 These sections repeal two statutes that are unnecessary. G.S. 20-118.11 duplicates both G.S. 20-96 and 20-118.1. G.S. 20-183.12 applied only to 1953 appropriation and is therefore obsolete.
- 13 Inserts the missing word "vehicle."
- 14 Corrects punctuation.
- 15 Conforms punishment to structured sentencing. Under G.S. 14-3.1, if a violation is punishable only by a penalty not to exceed \$100, the violation is an infraction rather than a misdemeanor.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 3 (95-RWZ-001)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Dot Appraisal License.

(Public)

Sponsors: Transportation Oversight Committee.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE PERMANENT THE EXEMPTION FOR REAL ESTATE ACQUIRED
BY THE DEPARTMENT OF TRANSPORTATION FROM THE REQUIREMENT THAT
IT BE APPRAISED BY A LICENSED OR CERTIFIED APPRAISER WHEN THE
ESTIMATED VALUE OF THE REAL ESTATE IS LESS THAN TEN THOUSAND
DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. Section 2 of Chapter 94 of the 1991 Session
Laws, as amended by Section 1 of Chapter 519 of the 1995 Session
Laws and by Section 1 of Chapter 691 of the 1995 Session Laws,
reads as rewritten:

"Sec. 2. This act is effective upon ~~ratification and expires~~
~~July 1, 1995.~~ ratification."

Sec. 2. This act is effective upon ratification.

**** Explanation ****

This proposal amends Section 2 of Chapter 94 of the 1991 Session Laws to remove the July 1, 1995 sunset from that section. The section currently exempts the Department of Transportation from the requirement that real estate be appraised by a licensed or certified appraiser when the estimated value of the real estate is less than \$10,000.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 4 (95-LJZ-10(1.2))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DOT Assigned Vehicle Changes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO EXEMPT THE DEPARTMENT OF TRANSPORTATION FROM THE
3 REQUIREMENT OF MAKING QUARTERLY REPORTS OF MILEAGE OF STATE
4 VEHICLES ASSIGNED TO THE DEPARTMENT AND TO ALLOW ASSIGNMENTS OF
5 VEHICLES TO THE DEPARTMENT TO BE REVOKED ONLY WHEN THE
6 DEPARTMENT CONSENTS.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 143-341(8)i.7a. reads as rewritten:

9 "7a. To adopt with the approval of the Governor and to
10 enforce rules and to coordinate State policy
11 regarding (i) the permanent assignment of
12 state-owned passenger motor vehicles and (ii) the
13 use of and reimbursement for those vehicles for the
14 limited commuting permitted by this subdivision.
15 For the purpose of this subdivision 7a,
16 "state-owned passenger motor vehicle" includes any
17 state-owned passenger motor vehicle, whether or not
18 owned, maintained or controlled by the Department
19 of Administration, and regardless of the source of
20 the funds used to purchase it. Notwithstanding the
21 provisions of G.S. 20-190 or any other provisions
22 of law, all state-owned passenger motor vehicles
23 are subject to the provisions of this subdivision
24 7a; no permanent assignment shall be made and no

one shall be exempt from payment of reimbursement for commuting or from the other provisions of this subdivision 7a except as provided by this subdivision 7a. Commuting, as defined and regulated by this subdivision, is limited to those specific cases in which the Secretary has received and accepted written justification, verified by historical data. The Department shall not assign any state-owned motor vehicle that may be used for commuting other than those authorized by the procedure prescribed in this subdivision.

A State-owned passenger motor vehicle shall not be permanently assigned to an individual who is likely to drive it on official business at a rate of less than 3,150 miles per quarter unless (i) the individual's duties are routinely related to public safety or (ii) the individual's duties are likely to expose him routinely to life-threatening situations. A State-owned passenger motor vehicle shall also not be permanently assigned to an agency that is likely to drive it on official business at a rate of less than 3,150 miles per quarter unless the agency can justify to the Division of Motor Fleet Management the need for permanent assignment because of the unique use of the vehicle. Each agency, other than the Department of Transportation, that has a vehicle assigned to it or has an employee to whom a vehicle is assigned shall submit a quarterly report to the Division of Motor Fleet Management on the miles driven during the quarter by the assigned vehicle. The Department of Administration Division of Motor Fleet Management shall verify, on a quarterly basis, review the report to verify that each motor vehicle has been driven at the minimum allowable rate. If it has not and if the department by whom the individual to which the car is assigned is employed or the agency to which the car is assigned cannot justify the lower mileage for the quarter in view of the minimum annual rate, quarter, the permanent assignment shall be revoked immediately. The Department of Transportation shall submit an annual report to the Division of Motor Fleet Management on the miles driven during the year by

vehicles assigned to the Department or to employees of the Department. If a vehicle included in this report has not been driven at least 12,600 miles during the year, the Department of Transportation shall review the reasons for the lower mileage and decide whether to terminate the assignment. The Division of Motor Fleet Management may not revoke the assignment of a vehicle to the Department of Transportation or an employee of that Department for failure to meet the minimum mileage requirement unless the Department of Transportation consents to the revocation.

Every individual who uses a State-owned passenger motor vehicle, pickup truck, or van to drive between his official work station and his home, shall reimburse the State for these trips at a rate computed by the Department. This rate shall approximate the benefit derived from the use of the vehicle as prescribed by federal law. Reimbursement shall be for 20 days per month regardless of how many days the individual uses the vehicle to commute during the month. Reimbursement shall be made by payroll deduction. Funds derived from reimbursement on vehicles owned by the Motor Fleet Management Division shall be deposited to the credit of the Division; funds derived from reimbursements on vehicles initially purchased with appropriations from the Highway Fund and not owned by the Division shall be deposited in a Special Depository Account in the Department of Transportation, which shall revert to the Highway Fund; funds derived from reimbursement on all other vehicles shall be deposited in a Special Depository Account in the Department of Administration which shall revert to the General Fund. Commuting, for purposes of this paragraph, does not include those individuals whose office is in their home, as determined by the Department of Administration, Division of Motor Fleet Management. Also, this paragraph does not apply to the following vehicles: (i) clearly marked police and fire vehicles, (ii) delivery trucks with seating only for the driver, (iii) flatbed trucks, (iv) cargo carriers with over a 14,000 pound capacity, (v) school and passenger

buses with over 20 person capacities, (vi) ambulances, (vii) hearses, (viii) bucket trucks, (ix) cranes and derricks, (x) forklifts, (xi) cement mixers, (xii) dump trucks, (xiii) garbage trucks, (xiv) specialized utility repair trucks (except vans and pickup trucks), (xv) tractors, (xvi) unmarked law-enforcement vehicles that are used in undercover work and are operated by full-time, fully sworn law-enforcement officers whose primary duties include carrying a firearm, executing search warrants, and making arrests, and (xvii) any other vehicle exempted under Section 274(d) of the Internal Revenue Code of 1954, and Federal Internal Revenue Services regulations based thereon. The Department of Administration, Division of Motor Fleet Management, shall report quarterly to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division of the Legislative Services Office on individuals who use State-owned passenger motor vehicles, pickup trucks, or vans between their official work stations and their homes, who are not required to reimburse the State for these trips.

The Department of Administration shall revoke the assignment or require the Department owning the vehicle to revoke the assignment of a State-owned passenger motor vehicle, pickup truck or van to any individual who:

- I. Uses the vehicle for other than official business except in accordance with the commuting rules;
- II. Fails to supply required reports to the Department of Administration, or supplies incomplete reports, or supplies reports in a form unacceptable to the Department of Administration and does not cure the deficiency within 30 days of receiving a request to do so;
- III. Knowingly and willfully supplies false information to the Department of Administration on applications for permanent assignments, commuting reimbursement forms, or other required reports or forms;

1 IV. Does not personally sign all reports on
2 forms submitted for vehicles permanently
3 assigned to him and does not cure the
4 deficiency within 30 days of receiving a
5 request to do so;

6 V. Abuses the vehicle; or

7 VI. Violates other rules or policy
8 promulgated by the Department of
9 Administration not in conflict with this
10 act.

11 A new requisition shall not be honored
12 until the Secretary of the Department of
13 Administration is assured that the
14 violation for which a vehicle was
15 previously revoked will not recur.

16 The Department of Administration, with the
17 approval of the Governor, may delegate, or
18 conditionally delegate, to the respective heads of
19 agencies which own passenger motor vehicles or to
20 which passenger motor vehicles are permanently
21 assigned by the Department, the duty of enforcing
22 all or part of the rules adopted by the Department
23 of Administration pursuant to this subdivision 7a.
24 The Department of Administration, with the approval
25 of the Governor, may revoke this delegation of
26 authority.

27 Prior to adopting rules under this paragraph, the
28 Secretary of Administration may consult with the
29 Advisory Budget Commission."

30 Sec. 2. This act is effective upon ratification.

Explanation of Proposal 4
DOT Assigned Vehicle Changes

This proposal makes two changes concerning State-owned passenger vehicles assigned to the Department of Transportation (DOT) by the Division of Motor Fleet Management of the Department of Administration. First, it directs DOT to make annual rather than quarterly reports to the Division of Motor Fleet Management on the number of miles driven by vehicles assigned either to DOT or an employee of DOT. Second, it prohibits the Division of Motor Fleet Management from terminating the assignment of a vehicle to DOT or an employee of DOT for failure of the vehicle to meet the minimum mileage requirements unless DOT agrees to the termination. The changes are effective upon ratification.

The effect of the proposal is to make permanent the temporary exemption from the assigned vehicle mileage requirements that has been granted to DOT by the appropriations acts since 1992. Section 38 of Chapter 1044 of the 1991 Session Laws (1992 Reg. Sess.) exempted State-owned passenger vehicles that were assigned to field personnel of DOT's Division of Highways from the minimum mileage requirements. This exemption expired July 1, 1993. Section 70 of Chapter 561 of the 1993 Session Laws expanded this exemption from the minimum mileage requirements to include all State-owned passenger vehicles assigned to DOT or an employee of DOT and made the exemption effective until July 1, 1994. Section 13 of Chapter 591 of the 1993 Session Laws (1994 Reg. Sess.) extended the expiration of the 1993 exemption to July 1, 1995.

Under the proposal, the Division of Motor Fleet Management could not assign a vehicle to DOT or an employee of DOT unless it was likely that the vehicle would be driven at least 3,150 miles a quarter. Once the assignment was made, DOT would not have to make quarterly reports of mileage and the Division of Motor Fleet Management could not revoke the assignment of a vehicle to DOT or an employee of DOT for failure to meet the minimum mileage requirements unless DOT agreed to the revocation.

Under G.S. 143-341(8)i., the Division of Motor Fleet Management of the Department of Administration has the responsibility of assigning State-owned vehicles to Departments and employees of those departments. That statute provides that a vehicle cannot be assigned unless it is likely that it will be driven at least 3,150 miles each quarter. Quarterly vehicle mileage reports are required to determine if the assigned vehicles have met the minimum requirements. If a vehicle has not met the

minimum mileage requirements and the Division finds that the failure is not justified, the Division must revoke the assignment. The reporting requirement and the revocation requirement do not currently apply to DOT, however, because of the special provisions described above.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 5 (95-LJXZ-8)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Allow Temporary Plate For 60 Days. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DIVISION OF MOTOR VEHICLES TO ISSUE A
TEMPORARY LICENSE PLATE THAT IS VALID FOR UP TO 60 DAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-50(b) reads as rewritten:

"(b) The Division may ~~upon receipt of proper application upon a~~
~~form supplied by the Division and an accompanying fee of three~~
~~dollars (\$3.00) grant a 10-day issue a temporary registration~~
~~marker license plate for a vehicle. A temporary license plate is~~
valid for the period set by the Division. The period may not be
less than 10 days nor more than 60 days.

A person may obtain a temporary license plate for a vehicle by
filing an application with the Division and paying the required
fee. An application must be filed on a form provided by the
Division.

The fee for a temporary license plate that is valid for 10 days
is three dollars (\$3.00). The fee for a temporary license plate
that is valid for more than 10 days is the amount that would be
required with an application for a license plate for the vehicle.
If a person obtains for a vehicle a temporary license plate that
is valid for more than 10 days and files an application for a
license plate for that vehicle before the temporary license plate
expires, the person is not required to pay the fee that would
otherwise be required for the license plate.

1 A temporary license plate is subject to the following
2 limitations and conditions:

- 3 (1) ~~Temporary 10-day registration markers shall~~ It may
4 be issued only upon proper proof that the applicant
5 has met the applicable financial responsibility
6 requirements.
- 7 (2) ~~Temporary 10-day registration markers shall expire~~
8 ~~10 days from the date of issuance. It expires on~~
9 ~~midnight of the day set for expiration.~~
- 10 (3) ~~Temporary 10-day registration markers~~ It may be
11 used only on the vehicle for which issued and may
12 not be transferred, ~~loaned~~ loaned, or assigned to
13 another.
- 14 (4) ~~In the event a temporary 10-day registration marker~~
15 ~~If it is lost or stolen, notice shall be furnished~~
16 ~~to the person who applied for it must notify the~~
17 ~~Division.~~
- 18 (5) ~~The Commissioner shall have the power to make such~~
19 ~~rules and regulations not inconsistent herewith as~~
20 ~~he shall deem necessary for the purpose of carrying~~
21 ~~out the provisions of this section. It may not be~~
22 ~~issued by a dealer.~~
- 23 (6) The provisions of G.S. 20-63, 20-71, 20-110 and
24 20-111 ~~shall that~~ apply in like manner to license
25 plates apply to temporary 10-day registration
26 markers as is applicable to nontemporary plates not
27 by their nature rendered inapplicable. license
28 plates insofar as possible."

29 Sec. 2. This act is effective upon ratification.

Explanation of Proposal 5
Allow Temporary Plate For 60 Days

This proposal gives the Division of Motor Vehicles of the Department of Transportation the authority to issue temporary cardboard license plates for vehicles that are valid for up to 60 days. In doing so, it conforms the statute to the current practices at the Division. The proposal is effective upon ratification.

Current law, in G.S. 20-50, states that a temporary plate is valid for 10 days. The Division, however, issues three types of temporary cardboard plates: (i) a 10-day in-transit plate; (ii) a 30-day temporary plate; and (iii) a 60-day apportioned plate. All three types are included in the proposal.

A 10-day plate is typically used to get a vehicle purchased in this State to another state where it will be registered. A 30-day plate is typically issued by an enforcement officer of the Division for a for-hire commercial vehicle that has been stopped at a weigh station or for another reason, does not have a proper license plate, and does not operate in other states. The 60-day plate is similar to the 30-day plate. It is typically issued by an enforcement officer of the Division for a for-hire commercial vehicle that has been stopped at a weigh station or for another reason, is not registered in this state, and operates in several states. A fee of \$3 is charged for the 10-day plate and the regular registration fees are charged for the 30-day and 60-day plates.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 6 (95-LJZ-9(1.4))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Raise Reportable Accident Amount. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE MINIMUM PROPERTY DAMAGE AMOUNT FOR A
3 REPORTABLE MOTOR VEHICLE ACCIDENT AND TO RESOLVE
4 INCONSISTENCIES IN THE LAW CONCERNING ACCIDENT REPORTS.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 20-4.01 is amended by adding a new
7 subdivision to read:
8 "(33b) Reportable accident. -- An accident involving a
9 motor vehicle that results in either of the
10 following:
11 a. Death or injury of a human being.
12 b. Total property damage of one thousand dollars
13 (\$1,000) or more."
14 Sec. 2. G.S. 20-166.1 reads as rewritten:
15 "\$ 20-166.1. Reports and investigations required in event of
16 collision, accident.
17 (a) Notice of Accident. -- The driver of a vehicle involved in
18 a collision resulting in injury to or death of any person or
19 total property damage to an apparent extent of five hundred
20 dollars (\$500.00) or more shall reportable accident must
21 immediately, by the quickest means of communication, give notice
22 of notify the collision to the local police department if the
23 collision occurs within a municipality, or to the office of the
24 sheriff or other qualified rural police of the county wherein the

~~1 collision occurred. appropriate law enforcement agency of the~~
~~2 accident. If the accident occurred in a city or town, the~~
~~3 appropriate agency is the police department of the city or town.~~
~~4 If the accident occurred outside a city or town, the appropriate~~
~~5 agency is the State Highway Patrol or the sheriff's office or~~
~~6 other qualified rural police of the county where the accident~~
~~7 occurred.~~

~~8 (b) Insurance Verification. -- The When requested to do so by~~
~~9 the Division, the driver of any a vehicle involved in a collision~~
~~10 resulting in injury to or death of any person or total property~~
~~11 damage to an apparent extent of five hundred dollars (\$500.00) or~~
~~12 more shall reportable accident must furnish proof of financial~~
~~13 responsibility on forms prescribed by the Division.~~
~~14 responsibility.~~

~~15 (c) Parked Vehicle. -- Notwithstanding any other provisions of~~
~~16 this section, the The driver of any a motor vehicle which that~~
~~17 collides with another motor vehicle left parked or unattended on~~
~~18 any street or a highway of this State shall within 48 hours must~~
~~19 report the collision to the owner of such the parked or~~
~~20 unattended motor vehicle. Such report shall This requirement~~
~~21 applies to an accident that is not a reportable accident as well~~
~~22 as to one that is a reportable accident. The report may be made~~
~~23 orally or in writing, must be made within 48 hours of the~~
~~24 accident, and must include the time, date and place of the~~
~~25 collision, the driver's name, address, driver's license number~~
~~26 and the following:~~

- ~~27 (1) The time, date, and place of the accident.~~
- ~~28 (2) The driver's name, address, and license number.~~
- ~~29 (3) The registration number of the vehicle being~~
~~30 operated by the driver at the time of the~~
~~31 collision, and such report may be oral or in~~
~~32 writing. Such written report must be transmitted~~
~~33 to the current address of the owner of the parked~~
~~34 or unattended vehicle by United States accident.~~

~~35 If the driver makes a written report to the owner of the parked~~
~~36 or unattended vehicle and the report is not given to the owner at~~
~~37 the scene of the accident, the report must be sent to the owner~~
~~38 by certified mail, return receipt requested, and a copy of such~~
~~39 report shall be transmitted to the North Carolina Division of~~
~~40 Motor Vehicles. the report must be sent to the Division.~~

~~41 No report, oral or written, made pursuant to this Article shall~~
~~42 be competent in any civil action except to establish identity of~~
~~43 the person operating the moving vehicle at the time of the~~
~~44 collision referred to therein.~~

1 ~~Any person who violates this subsection is guilty of a Class 1~~
2 ~~misdemeanor.~~

3 ~~(d) The Division may require the driver of a vehicle involved~~
4 ~~in a collision which is required to be reported by this section~~
5 ~~to file a supplemental report when the original report is~~
6 ~~insufficient in the opinion of the Division.~~

7 ~~(e) Investigation By Officer. -- It shall be the duty of the~~
8 ~~State Highway Patrol or the sheriff's office or other qualified~~
9 ~~rural police to investigate all collisions required to be~~
10 ~~reported by this section when the collisions occur outside the~~
11 ~~corporate limits of a city or town; and it shall be the duty of~~
12 ~~the police department of each city or town to investigate all~~
13 ~~collisions required to be reported by this section when the~~
14 ~~collisions occur within the corporate limits of the city or town.~~
15 ~~Every The appropriate law enforcement agency must investigate a~~
16 ~~reportable accident. A law-enforcement officer who investigates~~
17 ~~a collision as required by this subsection, a reportable~~
18 ~~accident, whether the investigation is made at the scene of the~~
19 ~~collision accident or by subsequent investigations and~~
20 ~~interviews, shall, within 24 hours after completing the~~
21 ~~investigation, forward a written report of the collision to the~~
22 ~~Division if the collision occurred outside the corporate limits~~
23 ~~of a city or town, or to the police department of the city or~~
24 ~~town if the collision occurred within the corporate limits of~~
25 ~~such city or town. Police departments should forward such~~
26 ~~reports to the Division within 10 days of the date of the~~
27 ~~collision. Provided, when a collision occurring outside the~~
28 ~~corporate limits of a city or town is investigated by a duly~~
29 ~~qualified law-enforcement officer other than a member of the~~
30 ~~State Highway Patrol, as permitted by this section, such other~~
31 ~~officer shall forward a written report of the collision to the~~
32 ~~office of the sheriff or rural police of the county wherein the~~
33 ~~collision occurred and the office of the sheriff or rural police~~
34 ~~shall forward such reports to the Division within 10 days of the~~
35 ~~date of the collision. The reports by law-enforcement officers~~
36 ~~shall be in addition to, and not in place of, the reports~~
37 ~~required of drivers by this section. must make a written report~~
38 ~~of the accident within 24 hours of the accident and must forward~~
39 ~~it as required by this subsection. The report must contain~~
40 ~~information on financial responsibility for the vehicle driven by~~
41 ~~the person whom the officer identified as at fault for the~~
42 ~~accident.~~

43 ~~If the officer writing the report is a member of the State~~
44 ~~Highway Patrol, the officer must forward the report to the~~

1 Division. If the officer is not a member of the State Highway
2 Patrol, the officer must forward the report to the local law
3 enforcement agency for the area where the accident occurred. A
4 local law enforcement agency that receives an accident report
5 must forward it to the Division within 10 days after receiving
6 the report.

7 ~~When any a person involved injured in an automobile collision~~
8 ~~shall die a reportable accident dies as a result of said~~
9 ~~collision within a period of the accident within 12 months~~
10 ~~following said collision, and such after the accident and the~~
11 ~~death shall not have been was not reported in the original~~
12 ~~report, it shall be the duty of investigating enforcement~~
13 ~~officers to the law enforcement officer investigating the~~
14 ~~accident must file a supplemental report setting forth the death~~
15 ~~of such person, that includes the death.~~

16 (f) ~~Medical Personnel. -- Every person holding the office of A~~
17 ~~county medical examiner in this State shall must report to the~~
18 ~~Division the death of any person as a result of a collision~~
19 ~~involving a motor vehicle in a reportable accident and the~~
20 ~~circumstances of the collision within five days following such~~
21 ~~death. Every accident. The medical examiner must file the~~
22 ~~report within five days after the death. A hospital shall must~~
23 ~~notify the medical examiner of the county in which the collision~~
24 ~~accident occurred of the death within the hospital of any person~~
25 ~~who dies as a result of injuries apparently sustained in a~~
26 ~~collision involving a motor vehicle, reportable accident.~~

27 (g) ~~Repealed by Session Laws 1987, c. 49.~~

28 (h) ~~Forms. -- The Division shall prepare and shall upon~~
29 ~~request supply to police, [medical examiners], sheriffs, and~~
30 ~~other suitable agencies, or individuals, forms for collision~~
31 ~~reports calling for sufficiently detailed information to disclose~~
32 ~~with reference to a highway collision the cause, conditions then~~
33 ~~existing, and the persons and vehicles involved. All collision~~
34 ~~reports required by this section shall be made on forms supplied~~
35 ~~or approved by the Division, must provide forms to persons~~
36 ~~required to make reports under this section and the reports must~~
37 ~~be made on the forms provided. The forms must ask for the~~
38 ~~following information about a reportable accident:~~

39 (1) The cause of the accident.

40 (2) The conditions existing at the time of the
41 accident.

42 (3) The persons and vehicles involved.

43 (i) ~~Effect of Report. -- All collision reports, including~~
44 ~~supplemental reports, above mentioned, except those made by~~

~~1 State, city or county police, shall be~~ A report of an accident
~~2 made under this section by a person that is not a law enforcement~~
~~3 officer is without prejudice and shall be prejudice, is for the~~
~~4 use of the Division~~ Division, and shall not be used in any manner
~~5 as evidence, or for any other purpose in any trial, civil or~~
~~6 criminal, arising out of such collision except that the Division~~
~~7 shall furnish upon demand of any court the accident. At the~~
~~8 demand of a court, however, the Division must give the court a~~
~~9 properly executed certificate stating that a particular collision~~
~~10 accident report has or has not been filed with the Division~~
~~11 solely to prove a compliance with this section.~~

~~12 The reports made by State, city or county police and medical~~
~~13 examiners, but no other reports required under this section,~~
~~14 shall be subject to the persons who are not law enforcement~~
~~15 officers or medical examiners are not public records. The~~
~~16 reports made by law enforcement officers and medical examiners~~
~~17 are public records and are open to inspection of members of by~~
~~18 the general public at all reasonable times, and the Division~~
~~19 shall furnish a certified copy of any such report to any member~~
~~20 of the general public who shall request the same, upon receipt of~~
~~21 a fee of four dollars (\$4.00) certified copy, or the Division is~~
~~22 authorized to furnish without charge to departments of the~~
~~23 governments of the United States, states, counties, and cities~~
~~24 certified copies of such collision reports for official use-~~
~~25 times. The Division must give a certified copy of one of these~~
~~26 reports to a member of the general public who requests a copy and~~
~~27 pays the fee set in G.S. 20-42.~~

~~28 Nothing herein provided shall prohibit the Division from~~
~~29 furnishing to interested parties only the name or names of~~
~~30 insurers and insured and policy number shown upon any reports~~
~~31 required under this section.~~

~~32 (j) Statistics. -- The Division shall receive collision~~
~~33 reports required to be made by this section, and may tabulate and~~
~~34 analyze such reports and publish annually, or at more frequent~~
~~35 intervals, may periodically publish statistical information on~~
~~36 motor vehicle accidents based thereon as to the number, cause and~~
~~37 location of highway collisions.~~

~~38 Based upon its findings after analysis, the on information in~~
~~39 accident reports. The Division may conduct further necessary~~
~~40 detailed research to determine more fully the cause and control~~
~~41 of highway collisions. It accidents and may further conduct~~
~~42 experimental field tests within areas of the State from time to~~
~~43 time to prove the practicability of various ideas advanced in~~
~~44 traffic control and collision accident prevention.~~

1 (k) Punishment. -- A violation of any provision of this
2 section is a ~~Class 2 misdemeanor~~ misdemeanor of the Class set in
3 G.S. 20-176."

4 Sec. 3. G.S. 20-179(d)(3) reads as rewritten:

5 "(3) Negligent driving that led to ~~an accident causing~~
6 ~~property damage in excess of five hundred dollars~~
7 ~~(\$500.00) or personal injury~~ a reportable
8 accident."

9 Sec. 4. G.S. 20-279.4 is repealed.

10 Sec. 5. G.S. 20-279.5(a) reads as rewritten:

11 "~~(a) If at the expiration of 20 days after the receipt of a~~
12 ~~report of a motor vehicle accident within this State which has~~
13 ~~resulted in bodily injury or death or total property damage in~~
14 ~~excess of five hundred dollars (\$500.00), the Commissioner does~~
15 ~~not have on file evidence satisfactory to him that the person who~~
16 ~~would otherwise be required to file security under subsection (b)~~
17 ~~of this section has been released from liability, or has been~~
18 ~~finally adjudicated not to be liable or has executed a duly~~
19 ~~acknowledged written agreement providing for the payment of an~~
20 ~~agreed amount, in installments or otherwise, or is for any other~~
21 ~~reason not required to file security under this Article with~~
22 ~~respect to all claims for injuries or damages resulting from the~~
23 ~~accident, the Commissioner shall determine the amount of security~~
24 ~~which shall be sufficient in his judgment to satisfy any judgment~~
25 ~~or judgments for damages resulting from such accident as may be~~
26 ~~recovered against each operator or owner. When the Division~~
27 ~~receives a report of a reportable accident under G.S. 20-166.1,~~
28 ~~the Commissioner must determine whether the owner or driver of a~~
29 ~~vehicle involved in the accident must file security under this~~
30 ~~Article and, if so, the amount of security the owner or driver~~
31 ~~must file. The Commissioner must make this determination at the~~
32 ~~end of 20 days after receiving the report."~~

33 Sec. 6. G.S. 20-279.11 reads as rewritten:

34 "\$ 20-279.11. Matters not to be evidence in civil suits.

35 Neither the report required by G.S. 20-279.4, information on
36 financial responsibility contained in an accident report, the
37 action taken by the Commissioner pursuant to this Article, the
38 findings, if any, of the Commissioner upon which ~~such~~ the action
39 is based, or the security filed as provided in this Article shall
40 be referred to in any way, nor be any evidence of the negligence
41 or due care of either party, at the trial of any action at law to
42 recover damages."

43 Sec. 7. G.S. 20-279.31 reads as rewritten:

44 "\$ 20-279.31. Other violations; penalties.

1 ~~(a) Failure to report an accident as required in G.S. 20-279.4~~
2 ~~is a Class 3 misdemeanor punishable only by a fine not in excess~~
3 ~~of twenty-five dollars (\$25.00) and in the event of injury or~~
4 ~~damage to the person or property of another in such accident, the~~
5 ~~The Commissioner shall suspend the license of the a person~~
6 ~~failing who fails to make such report, or the nonresident's~~
7 ~~operating privilege of such person, until such report has been~~
8 ~~filed and for such further report a reportable accident, as~~
9 ~~required by G.S. 20-166.1, until the Division receives a report~~
10 ~~and for an additional period not to set by the Commissioner. The~~
11 ~~additional period may not exceed 30 days as the Commissioner may~~
12 ~~fix, days.~~

13 (b) Any person who gives does any of the following commits a
14 Class 1 misdemeanor:

15 (1) Gives information required in a report or
16 otherwise as provided for in G.S. 20-279.4 of a
17 reportable accident, knowing or having reason to
18 believe that such the information is false, or
19 who shall forge or, without authority, sign
20 false.

21 (2) Forges or without authority signs any evidence of
22 proof of financial responsibility, or who files
23 responsibility.

24 (3) Files or offers for filing any such evidence of
25 proof of financial responsibility, knowing or
26 having reason to believe that it is forged or
27 signed without authority, is guilty of a Class 1
28 misdemeanor, authority.

29 (c) Any person willfully failing to return a license as
30 required in G.S. 20-279.30 is guilty of a Class 3 misdemeanor.

31 (c1) Any person who makes a false affidavit or knowingly
32 swears or affirms falsely to any matter under G.S. 20-279.5,
33 20-279.6, or 20-279.7 is guilty of a Class I felony.

34 (d) Any person who shall violate any provision of this Article
35 for which no penalty is otherwise provided is guilty of a Class 2
36 misdemeanor."

37 Sec. 8. G.S. 20-42(b) reads as rewritten:

38 "(b) The Commissioner and officers of the Division designated
39 by the Commissioner may prepare under the seal of the Division
40 and deliver upon request a certified copy of any document of the
41 Division, charging a fee of Division for a fee. The fee for a
42 document, other than an accident report under G.S. 20-166.1, is
43 five dollars (\$5.00) for each document certified. (\$5.00). The
44 fee for an accident report is four dollars (\$4.00). A certified

1 copy shall be admissible in any proceeding in any court in like
2 manner as the original thereof, without further certification.
3 The certification fee does not apply to a document furnished to
4 ~~State officials or to county, municipal, or court officials of~~
5 ~~this State for official use, use to a judicial official or to an~~
6 official of the federal government, a state government, or a
7 local government."

8 Sec. 9. This act becomes effective November 1, 1995,
9 and applies to accidents and offenses occurring on or after that
10 date.

Explanation of Proposal 6
Raise Reportable Accident Amount

This proposal raises the reportable accident amount from \$500 to \$1,000, effective November 1, 1995, and makes clarifying changes to the affected statutes. The reportable accident amount was last raised on October 1, 1983, when it was raised from \$250 to \$500. The Division of Motor Vehicles of the Department of Transportation suggested that the committee recommend increasing the current \$500 threshold to \$750. The North Carolina Highway Patrol then asked the committee to consider recommending increasing the threshold further to \$1,000. The Committee adopted the recommendation of the Highway Patrol and incorporated this recommendation in this proposal.

The reportable accident amount is the amount of damage done in a collision that triggers the notice and reporting requirements. If an accident involves (i) death or injury to a person or (ii) property damage in an amount that exceeds the threshold (now \$500), the driver of a vehicle involved in the accident must report the accident to a law enforcement officer. The law enforcement officer must then make a report of the accident and send the report to the Division of Motor Vehicles.

Section 1 of the bill changes the reportable accident amount from \$500 to \$1,000. It does this by inserting a definition of reportable accident in the list of definitions that apply to the motor vehicle laws. Establishing a definition of reportable accident avoids needless repetition in various places in the statutes and ensures uniformity whenever a change is made in the threshold amount. The other sections of the bill make conforming changes to various statutes that apply to reportable accidents.

Section 2 amends G.S. 20-166.1, the statute that specifies when a person must report an accident, to replace references to the \$500 threshold with the term "reportable accident." It also makes clarifying changes to that statute. First, it deletes provisions in subsections (d) and (e) of the statute that refer to reports filed by drivers because law enforcement officers rather than the drivers are the ones that complete and file the reports. Many years ago, the drivers filed the reports but the law was changed to have law enforcement officers file the reports and the statute was not changed accordingly.

Second, section 2 incorporates the requirement that is now in G.S. 20-279.4 for an officer to obtain liability insurance information when investigating a reportable accident. Third, it resolves the conflict between subsections (c) and (k) of G.S. 20-

166.1 concerning the punishment for failure to make a report of an accident involving a parked vehicle. Subsection (c) makes the failure a Class 1 misdemeanor and subsection (k) makes it a Class 2 misdemeanor. The bill makes all violations of G.S. 20-166.1 a Class 2 misdemeanor (as is stated in subsection (k)), thereby allowing the general punishment provisions in G.S. 20-176 to apply.

Fourth, section 2 deletes language in subsection (c) of the statute on the effect of a report because the same provision is repeated in subsection (i) and is therefore not necessary in subsection (c). Fifth, section 2 deletes language in subsection (i) concerning information the Division can give to interested parties because it is unnecessary. All the information the Division gives interested parties on the matter of insurance comes from public records.

Finally, section 2 moves the fee for a certified copy of an accident report from G.S. 20-166.1 to G.S. 20-42. It does this to consolidate the fee provisions so that one is not overlooked when any changes are made to the fees. In 1991, the fee in G.S. 20-42(b) for certified documents of the Division was increased from \$4.00 to \$5.00. A similar increase was not made in the fee for a certified copy of an accident report because that fee was set in a different statute and was overlooked. This section does not change the fee for a certified copy of an accident report; it simply moves the fee from one statute to another.

Section 3 replaces a reference in G.S. 20-179(d) to the \$500 threshold with the term "reportable accident." That statute sets out an aggravating factor to consider in determining the punishment of a person convicted of driving while impaired.

Section 4 repeals a statute that requires accident reports to include information on liability insurance. It does this because the requirement is included in G.S. 20-166.1, as rewritten by section 2 of this proposal, and is therefore not needed.

Section 5 amends G.S. 20-279.5 to replace a reference to the \$500 threshold with the term "reportable accident." That statute directs the Commissioner of Motor Vehicles to review accident reports to determine if a person does not have liability insurance and therefore needs to file a security deposit with the Division.

Section 6 amends G.S. 20-279.11 to delete a reference to G.S. 20-279.4, which is repealed by section 4 of this proposal. The section substitutes a reference to an accident report for the former reference to G.S. 20-279.4.

Section 7 amends G.S. 20-279.31 to delete references to G.S. 20-279.4, which is repealed by section 4 of this proposal, and to delete a punishment for failing to report a reportable accident that conflicts with the punishment set in G.S. 20-166.1.

Subsection (a) of G.S. 20-279.31 makes failure to report an accident a Class 3 misdemeanor punishable only by a \$25 fine. G.S. 20-166.1 makes the failure a Class 2 misdemeanor. Repealing the conflicting provision in G.S. 20-279.31(a) makes it clear that the punishment in G.S. 20-166.1 is the appropriate one.

Section 8 incorporates in G.S. 20-42 the fee provisions that were deleted from G.S. 20-166.1 by section 2 of this proposal. It does not change the fee for a certified copy of an accident report or the persons who are entitled to a free certified copy of an accident report.

Section 9 sets the effective date of the proposal. The effective date is November 1, 1995.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 7 (95-LJXZ-7(1.3))
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Insurance Lapse Penalty Changes. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE PENALTIES FOR DRIVING A VEHICLE WITHOUT
3 INSURANCE.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-309(e) reads as rewritten:
6 "(e) ~~Upon termination by cancellation or otherwise of an~~
7 ~~insurance policy provided in subsection (b) of this section, the~~
8 ~~An insurer shall that, by cancellation or failure to renew,~~
9 ~~terminates a liability insurance policy must notify the Division~~
10 ~~of such termination; provided, no cancellation notice is required~~
11 ~~if the insurer issues a new insurance policy complying with this~~
12 ~~Article at the same time the insurer cancels or otherwise~~
13 ~~terminates the old policy, the termination. This requirement~~
14 ~~does not apply when an insurer issues a new liability insurance~~
15 ~~policy to replace the terminated policy and no lapse in coverage~~
16 ~~results, and the insurer sends results. In this circumstance,~~
17 ~~however, the insurer must notify the Division certificate of~~
18 ~~insurance form for the issuance of the new policy to the~~
19 ~~Division. The Division, upon receiving notice of cancellation or~~
20 ~~termination of an owner's financial responsibility as required by~~
21 ~~this Article, shall notify such owner of such cancellation or~~
22 ~~termination, and such owner shall, to retain the registration~~
23 ~~plate for the vehicle registered or required to be registered,~~
24 ~~within 10 days from date of notice given by the Division either:~~

~~(1) Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or~~

~~(2) In the case of a lapse in financial responsibility, pay a fifty dollar (\$50.00) civil penalty; and certify to the Division that he now has financial responsibility effective on the date of certification, that he did not operate the vehicle in question during the period of no financial responsibility with the knowledge that there was no financial responsibility, and that the vehicle in question was not involved in a motor vehicle accident during the period of no financial responsibility.~~

~~Failure of the owner to certify that he has financial responsibility as herein required shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned and unless the owner's registration plate has on or prior to the date of termination of insurance been surrendered to the Division by surrender to an agent or representative of the Division designated by the Commissioner, or depositing the same in the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North Carolina, the Division shall revoke the vehicle's registration for 30 days.~~

~~In no case shall any vehicle, the registration of which has been revoked for failure to have financial responsibility, be reregistered in the name of the registered owner, spouse, or any child of the spouse, or any child of such owner within less than 30 days after the date of receipt of the registration plate by the Division of Motor Vehicles, except that a spouse living separate and apart from the registered owner may register such vehicle immediately in such spouse's name. Additionally, as a condition precedent to the reregistration of the vehicle by the registered owner, spouse, or any child of the spouse, or any child of such owner, except a spouse living separate and apart from the registered owner, the payment of a restoration fee of fifty dollars (\$50.00) and the appropriate fee for a new registration plate is required. Any person, firm or corporation failing to give notice of termination shall be subject to policy. The Commissioner of Insurance may assess a civil penalty of two hundred dollars (\$200.00) to be assessed by the Commissioner of Insurance upon a finding by the Commissioner of Insurance that good cause is not shown for such failure to give notice of termination to the Division. against an insurer that fails to~~

1 notify the Division, as required by this subsection, unless the
2 insurer establishes good cause for the failure."

3 Sec. 2. G.S. 20-311 reads as rewritten:

4 "\$ 20-311. Revocation of registration when financial
5 responsibility not in effect. Action by Division when notified
6 that a vehicle is not insured.

7 Upon receipt of evidence that financial responsibility for the
8 operation of any motor vehicle registered or required to be
9 registered in this State is not or was not in effect at the time
10 of operation or certification that insurance was in effect, the
11 Division shall revoke the owner's registration plate issued for
12 the vehicle at the time of operation or certification that
13 insurance was in effect or the current registration plate for the
14 vehicle in the year registration has changed for 30 days.

15 The vehicle for which registration has been revoked pursuant to
16 this section may be registered at the end of the 30-day
17 revocation period upon certification of financial responsibility
18 and payment by the vehicle owner of a fifty-dollar (\$50.00)
19 administrative fee in addition to appropriate license fees. In no
20 event may such vehicle be registered prior to payment of the
21 fifty dollar (\$50.00) administrative fee.

22 (a) Action. -- When the Division receives evidence, by a notice
23 of termination of a liability insurance policy or otherwise, that
24 the owner of a motor vehicle registered or required to be
25 registered in this State does not have financial responsibility
26 for the operation of the vehicle, the Division must send the
27 owner a letter. The letter must notify the owner of the evidence
28 and inform the owner that the owner must respond to the letter
29 within 10 days of the date on the letter and explain how the
30 owner has met the duty to have continuous financial
31 responsibility for the vehicle. Based on the owner's response,
32 the Division must take the appropriate action listed:

33 (1) Division Correction. -- If the owner responds
34 within the required time and the response
35 establishes that the owner has not had a lapse in
36 financial responsibility, the Division must correct
37 its records.

38 (2) Penalty Only. -- If the owner responds within the
39 required time and the response establishes all of
40 the following, the Division must assess the owner a
41 penalty in the amount set in subsection (b) of this
42 section:

- 1 a. The owner had a lapse in financial
2 responsibility, but the owner now has
3 financial responsibility.
4 b. The vehicle was not involved in an accident
5 during the lapse in financial responsibility.
6 c. The owner did not operate the vehicle during
7 the lapse with knowledge that the owner had no
8 financial responsibility for the vehicle.

9 (3) Penalty and Revocation. -- If the owner responds
10 within the required time and the response
11 establishes any of the following, the Division must
12 assess the owner a penalty in the amount set in
13 subsection (b) and revoke the registration of the
14 owner's vehicle for the period set in subsection
15 (c):

- 16 a. The owner had a lapse in financial
17 responsibility and still does not have
18 financial responsibility.
19 b. The owner now has financial responsibility
20 even though the owner had a lapse, but the
21 vehicle was involved in an accident during the
22 lapse, the owner operated the vehicle during
23 the lapse with knowledge that the owner had no
24 financial responsibility for the vehicle, or
25 both.

26 (4) Revocation Pending Response. -- If the owner does
27 not respond within the required time, the Division
28 must revoke the registration of the owner's vehicle
29 for the period set in subsection (c). When the
30 owner responds, the Division must take the
31 appropriate action listed in subdivisions (1)
32 through (3) of this subsection as if the response
33 had been timely.

34 (b) Penalty Amount. -- The penalty amount is the greater of the
35 following:

- 36 (1) Twenty-five dollars (\$25.00).
37 (2) One dollar (\$1.00) multiplied by the product of the
38 number of days the owner had no financial
39 responsibility and the owner's driving points under
40 G.S. 20-16 on the day the lapse in financial
41 responsibility began.

42 A lapse in financial responsibility that results from failure
43 to make an installment payment of a premium on a liability

1 insurance policy begins the day after the installment was due
2 rather than the effective date of the policy.

3 If a vehicle owner is subject to a penalty because the owner
4 had a lapse in financial responsibility and still does not have
5 financial responsibility, the Division must assess part of the
6 penalty when it establishes that the owner is subject to a
7 penalty and part of it when the owner applies to the Division to
8 register a vehicle upon obtaining financial responsibility. The
9 Division must calculate the first part of the penalty based on
10 the number of days in the lapse up to the date of the revocation
11 notice the Division sends the owner. The Division must calculate
12 the second part of the penalty based on the number of days in the
13 lapse from the date of the revocation notice to the date the
14 owner obtains financial responsibility.

15 (c) Revocation Period. -- The revocation period for a
16 revocation based on a response that establishes that a vehicle
17 owner does not have financial responsibility is indefinite and
18 ends when the owner obtains financial responsibility or transfers
19 the vehicle to an owner who has financial responsibility. The
20 revocation period for a revocation based on a response that
21 establishes the occurrence of an accident during a lapse in
22 financial responsibility or the knowing operation of a vehicle
23 without financial responsibility is 30 days. The revocation
24 period for a revocation based on failure of a vehicle owner to
25 respond is indefinite and ends when the owner responds.

26 (d) Revocation Notice. -- When the Division revokes the
27 registration of an owner's vehicle, it must notify the owner of
28 the revocation. The notice must inform the owner of the
29 following:

- 30 (1) That the owner must return the vehicle's license
31 plate and registration card to the Division, if the
32 owner has not done so already, and that failure to
33 do so is a Class 2 misdemeanor under G.S. 20-45.
- 34 (2) That the vehicle's license plate and registration
35 card are subject to seizure by a law enforcement
36 officer.
- 37 (3) That the registration of the vehicle cannot be
38 renewed while the registration is revoked.
- 39 (4) That the owner must pay any penalties assessed, a
40 restoration fee, and the fee for a license plate
41 when the owner applies to the Division to register
42 a vehicle whose registration was revoked.

43 A vehicle whose registration has been revoked may not be
44 registered during the revocation period in the name of the owner,

1 a child of the owner, the owner's spouse, or a child of the
2 owner's spouse. This restriction does not apply to a spouse who
3 is living separate and apart from the owner.

4 (f) Registration After Revocation. -- At the end of a
5 revocation period, a vehicle owner who has financial
6 responsibility may apply to register a vehicle whose registration
7 was revoked. The owner must pay any penalty assessed, a
8 restoration fee of twenty-five dollars (\$25.00), and the fee for
9 a license plate."

10 Sec. 3. G.S. 20-316 reads as rewritten:

11 "§ 20-316. Divisional hearings upon lapse of liability insurance
12 coverage.

13 Any person whose registration license plate has been revoked
14 under G.S. ~~20-309(e)~~ or 20-311 may request a hearing. Upon
15 receipt of such a request, the Division shall, as early as
16 practical, afford him an opportunity for hearing. Upon such
17 hearing must hold a hearing as soon as practical. At the
18 hearing, the duly authorized agents of the Division may
19 administer oaths and issue subpoenas for the attendance of
20 witnesses and the production of relevant books and documents. If
21 it appears that continuous financial responsibility existed for
22 the vehicle involved, or if it appears the lapse of financial
23 responsibility is not reasonably attributable to the neglect or
24 fault of the person whose registration license plate was revoked,
25 the Division shall withdraw its order of revocation and such the
26 person may retain the registration license plate. Otherwise, the
27 order of revocation shall be affirmed and the registration
28 license plate surrendered."

29 Sec. 4. This act becomes effective January 1, 1996, and
30 applies to lapses of financial responsibility occurring on or
31 after that date.

32
33

Explanation of Proposal 7
Insurance Lapse Penalty Changes

This proposal makes three changes in the consequences of driving a vehicle without liability insurance for the vehicle, effective January 1, 1996, and makes technical changes to the affected statutes. The three changes are:

- (1) A change in the penalty amount from \$50 to the greater of (i) \$25 or (ii) the dollar amount equal to the number of days in a lapse in insurance multiplied by the owner's drivers license points.
- (2) A change in the revocation period for the failure of a vehicle owner to have insurance from 30 days to an indefinite period that ends when the owner obtains insurance.
- (3) A change in the restoration fee from \$50 to \$25.

The Division of Motor Vehicles of the Department of Transportation asked the committee to review the insurance penalty provisions as a result of the number of complaints the Division receives about those provisions. The committee reviewed the provisions and determined that changes are needed to make the penalties fit the purpose for which they are imposed. The purpose of imposing penalties for lapses in insurance is to prevent drivers from operating vehicles that are uninsured. The penalty needs to be high enough so that it is not cheaper to pay a penalty when the Division determines there has been a lapse than it is to maintain insurance and it should not be so high as to be excessively harsh when applied to unintentional and unknowing lapses.

The committee decided that the current penalty of \$50 does not gauge the penalty to the risk. The danger of an uninsured driver to the motoring public is greater for drivers with poor driving records than it is for drivers with good driving records. A flat \$50 penalty does not distinguish between drivers, however. To make the penalty fit the risk, the committee decided to change the penalty from a fixed penalty to one based on a simple formula. The formula is the days in a lapse multiplied by the drivers license points of the person who had the lapse, with the proviso that the penalty must be at least \$25. Thus, if the lapse were for 12 days and the person had 5 drivers license points, the penalty would be \$60. If the person had no points, the penalty would be \$25.

The committee decided that the fixed 30-day revocation period should also be changed to fit the purpose of preventing the operation of an uninsured vehicle. Once a person who had a lapse obtains insurance, the risk to others posed by driving without

insurance is over. The committee reasoned that the person should then be able to renew the revoked registration and not wait until the end of the 30-day period. Finally, the committee decided that the \$50 restoration fee can be lowered to \$25. The restoration fee for a drivers license, other than one revoked for driving while impaired, is \$25.

Section 1 of the proposal deletes from G.S. 20-309(e) the current provisions on the penalties for having a lapse in insurance. It does this because the revised provisions are incorporated in G.S. 20-311, as rewritten by section 2 of the proposal.

Section 2 revises the insurance penalty provisions as described above and adds more of the current procedure concerning imposition of the penalty to the statutes. Section 3 makes a conforming change needed as a result of moving the penalty provisions from G.S. 20-309 to G.S. 20-311. Section 4 sets the effective date at January 1, 1996.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 8 (95-RWZ-011)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Let Dot Sell Ferry Souvenirs.

(Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO SELL
3 SOUVENIRS ON FERRIES AND AT FERRY FACILITIES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 136-82 reads as rewritten:
6 "§ 136-82. Department of Transportation to establish and
7 maintain ferries.
8 The Department of Transportation is vested with authority to
9 provide for the establishment and maintenance of ferries
10 connecting the parts of the State highway system, whenever in its
11 discretion the public good may so require, and to prescribe and
12 collect such tolls therefor as may, in the discretion of the
13 Department of Transportation, be expedient.
14 To accomplish the purpose of this section said Department of
15 Transportation is authorized to acquire, own, lease, charter or
16 otherwise control all necessary vessels, boats, terminals or
17 other facilities required for the proper operation of such
18 ferries or to enter into contracts with persons, firms or
19 corporations for the operation thereof and to pay therefor such
20 reasonable sums as may in the opinion of said Department of
21 Transportation represent the fair value of the public service
22 rendered.
23 ~~To provide for the comfort and convenience of the passengers on~~
24 ~~the ferries established and maintained pursuant to this section,~~

1 ~~the~~ The Department of Transportation, notwithstanding any other
2 provision of law, may operate, or contract for the operation of,
3 concessions on the ferries and at ferry facilities to provide to
4 passengers on the ferries food, drink, and other refreshments,
5 and personal comfort items for these passengers. items, and
6 souvenirs publicizing the ferry system."

7 Sec. 2. This act becomes effective July 1, 1995.

*** EXPLANATION ***

This proposal amends G.S. 136-82 to allow DOT to sell or contract for the sale of souvenirs publicizing the ferry system on ferries and at ferry facilities.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 9 (95-RWZ-011)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Let Dot Dredge For Local Gov't. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO PERFORM
DREDGING SERVICES FOR UNITS OF LOCAL GOVERNMENT.

The General Assembly of North Carolina enacts:

Section 1. Article 6 of Chapter 136 of the General
Statutes is amended by adding a new section to read:

"§ 136-82.3. Authority to perform dredging services.

The Department of Transportation may perform dredging services,
on a cost-reimbursement basis, for a unit of local government if
the unit cannot obtain the services from a private company at a
cost that the unit can afford. A unit of local government is
considered to be unable to obtain dredging services at a cost it
can afford if it solicits bids for the dredging services in
accordance with Article 8 of Chapter 143 of the General Statutes
and does not receive a responsible bid to perform the services
for the amount of funds available to the unit to pay for the
services."

Sec. 2. G.S. 66-58(c) is amended by adding a new
subdivision to read:

"(16) The performance by the Department of
Transportation of dredging services for a unit
of local government."

Sec. 3. This act becomes effective July 1, 1995.

* * * Explanation * * *

This proposal amends G.S. 66-58 (restrictions on government business activity) and adds new G.S. 136-82.2 to allow the Department of Transportation to perform dredging services on a cost reimbursement basis for local governments.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

Proposal 10 (95-RWZ-002)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: License Photos Confidential. (Public)

Sponsors: Transportation Oversight Committee.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CONFIDENTIAL ALL PHOTOGRAPHIC IMAGES RECORDED BY
3 THE DIVISION OF MOTOR VEHICLES FOR DRIVERS LICENSES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-43(a) reads as rewritten:
6 "(a) All records of the Division, other than those declared by
7 law to be confidential for the use of the Division, shall be open
8 to public inspection during office hours. A photographic image
9 recorded in any format by the Division for a drivers license is
10 confidential and shall not be released except for law enforcement
11 purposes."
12 Sec. 2. This act is effective upon ratification.

Explanation

Currently, the Division of Motor Vehicles does not retain a copy of the photographs that appear on drivers licenses. The Division has proposed the installation of a new photography system for drivers licenses that would digitally record each applicant's photograph and retain the image in a computer database. This proposal, which has not as yet been funded, caused concern among members of the Joint Legislative Transportation Oversight Committee about misuse of the database and the privacy of those photographed. To address these concerns, the Committee approved this proposal. It amends the drivers license records law (G.S. 20-43) to make confidential any photographic image recorded by the Division of Motor Vehicles for drivers licenses. Under this proposal, images recorded by the Division for drivers licenses could only be released for law enforcement purposes.

SUBCOMMITTEE REPORTS

SUBCOMMITTEES

The Chairmen of the Transportation Oversight Committee appointed a new subcommittee and continued one subcommittee to deliberate on issues and bring back recommendations to the full Committee. The subcommittees and their membership are as follows:

INMATE LABOR

Representative Bob Hunter, Chair

Representative Mary McAllister
Senator Jim Speed
Senator Paul Smith

MOTOR FUEL TAX EVASION

Representative John McLaughlin, Chair

Representative Ed Bowen
Senator Paul Smith

REPORT FROM THE SUBCOMMITTEE ON THE USE OF
INMATE LABOR IN ROAD SQUADS

This subcommittee made eleven recommendations to the General Assembly and to the Departments of Correction and Transportation in the Spring of 1994. The subcommittee continued its work in the fall to follow-up on these recommendations.

COMMITTEE PROCEEDINGS

November 2, 1994 Meeting

The subcommittee reviewed the actions taken by the Departments of Correction and Transportation since the group's recommendations were published in April. The committee recommendations and the department actions are summarized below:

- 1) Recommend that the Departments of Transportation and Correction review all of their procedures to maximize the use of road squad inmate labor without imperiling the public. Assign a lead staff person to oversee, coordinate and evaluate procedures to ensure that the greatest number of inmates are assigned to road squads.

Response: Lead staff persons are Frank Pace for the Department of Transportation (DOT) and Boyd Bennett for the Department of Correction (DOC). DOT reports that the numbers of medium custody inmates increased from 736 to 784 in 1993-94. The medium custody inmate utilization increased from 47.5% to 59.6% in 1993-94. This means the inmates worked 59.6% of the days they were paid to work. DOC receives an appropriation for medium custody workers whether they show up at DOT or not.

- 2) Recommend that at each road squad unit a labor pool be created. This would allow for the replacement of inmates who are not available on a particular day, thereby assuring an ample pool of eligible inmates. In addition, it is recommended that DOC develop a procedure to make relief officers available when needed for road squads.

Response: Labor pools have been created at prisons that have had difficulties in meeting road squad quotas. DOC has been unable to develop a procedure to make relief officers available because it has not received an appropriation for additional staff. When possible, correctional officers are assigned to the road squad to replace an absent officer.

- 3) Recommend that inmates who meet the criteria for road squad assignment be assigned to units with road squads, and the DOC review their need for road squads, by unit, in order to assign as many eligible inmates to road squad units as possible.

Response: This is an ongoing process for the Division of Prisons.

- 4) Recommend placing more minimum custody inmates on road squads, including using 14 man crews under DOC supervision.

Response: A new work program called the Community Work Program will have 41 crews at 13 sites across the state. The crews will be supervised by a correctional officer and will work for cities, counties and other governmental agencies. DOT will not be the primary focus of these crews, but will receive some man-hours of labor.

- 5) Recommend that DOC construct additional day room space onto existing barracks.

Response: No action

- 6) Recommend that DOC funding be based on the actual number of labor days for both minimum and medium custody inmates.

Response: No action

- 7) Recommend that DOC comply with the requirements of G.S. 148-26.5 and compute the annual cost of the inmate labor road squad program, and report these costs to the Joint Legislative Transportation Oversight Committee. The Fiscal Research Division will work with the department in preparing a format for computing the actual costs of operating the inmate road squads.

Response: No action.

- 8) Recommend DOC review its practice of prohibiting the use of inmates with serious assaultive crimes against persons until they are within 6 months of being eligible for minimum custody. A recommendation is that DOC consider changing the 6 month time frame to one year and 2 years for all others.

Response: The Division of Prisons is revising its policy to allow assaultive inmates on road squads when they are within 12 months of being eligible for minimum custody.

- 9) Recommend that DOT identify employees of the DOT and inmates on road squads by means of signs and appropriate apparel, or other ways of identifying work crews on our highways and roads.

Response: DOT is using "Inmates Working" signs for medium custody crews. 2,000 safety vests with INMATE printed in four inch block letters have been issued.

- 10) Recommend that the departments use more inmates to paint guard rails and eradicate weeds and shrubs around guard rails and road signs. Recommend that DOC review their policy of not allowing medium custody inmates to use chain saws.

Response: DOT has directed their personnel to make these assignments part of the inmate program. Chain saws are still not allowed by DOC.

- 11) Require both departments to report quarterly to the Joint Legislative Transportation Oversight Committee on the status of their efforts to comply with the recommendations of the subcommittee and full committee. The Fiscal Research Division staff will make recommendations on reporting requirements to the departments.

Response: Both departments have reported.

January 11, 1995 Meeting

The Department of Correction (DOC) provided answers to several questions raised by the subcommittee at its meeting on November 2.

- DOC is considering a new health grading program that would increase the number of health grades from 3 to 4. Those inmates with minor health problems now graded B and not allowed to work on a road squad, would be given a grade that recognizes their health limitations but still permits them to work.

- DOC will add 35 medium security road squads with 420 inmates by June 1995. The inmates are housed in 9 prison units in the Piedmont and Eastern regions of the state. This increase will push the cost of the medium custody road squads to \$10.7 million from its current budget of \$6.1 million. DOT pays \$4.6 million from the Highway Fund for its share of the program cost.
- DOC gave the committee copies of the inmate assignment file summaries for 1993 and 1994 (see attached). The number of inmates assigned to work detail rose from 14,886 in 1993 to 15,988 in 1994.
- DOC has produced a brochure on the inmate labor program, and has written numerous news releases that have been carried in papers across the state. The Subcommittee was given a packet of articles written on working inmates. Rep. Hunter asked that legislative staff work with DOC in publicizing the inmate labor program.
- DOC will re-evaluate the number of inmates assigned to road squads once several lawsuits are settled.
- DOC reported that in December, only 4% of the days were not worked due to the lack of an officer being available.

**NORTH CAROLINA DEPARTMENT OF CORRECTION
DIVISION OF PRISONS**

Assignment File Summary

	<u>11-1-93</u>	<u>12-15-94</u>
<u>INMATE ASSIGNMENTS</u>		
1. On-Unit Assignments (Food Service Maintenance, etc.)	4,577	4,892
2. Off-Site Assignments (State/Local Gov., etc.)	552	542
3. Road Squads	1,554	1,616
4. Enterprise	1,758	1,848
5. Work Release Program	1,068	1,088
6. Education Related Programs	4,117	3,742
7. Substance Abuse Programs	258	257
8. Construction	118	56
9. Other Program Assignments (Vocational Rehabilitation, etc.)	884	1,947
	<hr/>	<hr/>
	14,886	15,988
<u>INMATES UNAVAILABLE FOR ASSIGNMENT</u>		
New Admissions	64	1,283
Administrative Segregation	835	757
Disciplinary Segregation	232	418
Intensive Management	1,739	1,345
Protective Custody	93	69
Health Service (Mental Health, Inpatient, etc.)	365	339
	<hr/>	<hr/>
	3,328	4,211
<u>INMATES UNASSIGNED</u>		
Unassigned (Out-to-Court, Off-Site Hospital, etc.)	523	559
Assignment Pending (New Arrivals, Waiting Transfer, etc.)	2,970	2,005
	<hr/>	<hr/>
Population Count on November 1, 1993	21,707	
Population Count on December 15, 1994		22,763

FUEL TAX EVASION SUBCOMMITTEE REPORT

The Fuel Tax Evasion Subcommittee was appointed to review the Department of Transportation's proposed expenditures for improved detection and enforcement of motor fuel tax law evasion in North Carolina. Representative John McLaughlin was chairman of the subcommittee, and Representative Ed Bowen and Senator Paul Smith were members. The subcommittee met once on October 20, 1994.

Section 14 of Chapter 754 of the 1993 Session Laws (Regular Session 1994) authorizes the Secretary of the Department of Transportation to expend funds within its existing budget for the 1994-95 fiscal year to "expand efforts that encourage compliance with fuel tax laws." The authorizing legislation required the Department to provide the Joint Legislative Transportation Oversight Committee with an itemized list of planned expenditures for their review prior to implementation.

The Department established a \$2 million reserve for FY1994-95 from surplus revenues available after the close of the 1993-94 fiscal year. With the cooperation of tax administrators from the Department of Revenue and officers in the Enforcement Section of the Division of Motor Vehicles, the Department of Transportation developed a comprehensive Fuel Tax Compliance Plan that was submitted to the Joint Legislative Transportation Oversight Committee on October 5, 1994. The committee appointed a subcommittee to study the plan and formulate recommendations for action that would be considered at the committee's November meeting.

The Department of Transportation chose to address the fuel tax evasion problem with an eight-year plan that has three phases: near-term, intermediate and long-term. A summary of the expenditures and objectives of each phase are provided on the following page. Cumulative multiyear cost projections were estimated by the Department at \$23.6 million, which also estimated an eventual increase of annual fuel tax revenues of \$40 million.

The subcommittee heard an explanation of the Plan from the Department of Transportation. Staff then presented an itemized list of the expenditures in the Plan as well as the following findings:

1. Expenditures beyond fiscal year 1994-95 are outside the scope of the authorizing law and expenditures in future years need to be addressed by the House and Senate Appropriations Committees in the budgets for those years.

2. The Plan's major focus is more effective enforcement of fuel tax laws among interstate motor carriers. The exchange of data between Division of Motor Vehicles Enforcement and the Department of Revenue is critical for this effort to succeed.

Expenditures necessary to accomplish this exchange are:

- (a) Three additional management information systems positions in the Department of Revenue.
- (b) Funds for Lockheed contracts to move the motor fuel taxpayer database from the management of the Lockheed Corporation to the Department of Revenue.
- (c) Consultant fees in the Department of Transportation to build the inter-agency data exchange network.
- (d) The purchase of 150 cellular phones for Division of Motor Vehicles enforcement vehicles.

3. All other expenditures in the Plan presented to the Transportation Oversight Committee are non-essential expenditures for the 1994-95 fiscal year and should be brought before the Senate and House Appropriations committees when the General Assembly convenes in 1995.

Subcommittee staff then presented an alternative expenditure plan based on the previous findings. After a period of discussion, the subcommittee adopted the alternative plan.

THE FUEL TAX COMPLIANCE PLAN

BACKGROUND

House Bill 1843, enacted during the 1994 Session, authorized the Department of Transportation to expend funds within their existing budget for the 1994-95 fiscal year to "expand efforts that encourage compliance with fuel tax laws". These expenditures must be itemized and provided to the Transportation Oversight Committee and members of the House and Senate Appropriations committees for review before DOT can make those expenditures.

At the end of the last fiscal year, DOT set aside a \$2 million one-time reserve for this purpose. A reserve, by definition, consists of non-recurring dollars.

The Fuel Tax Compliance Plan developed by DOT, with the help of the Motor Fuels Tax Division of the Department of Revenue, goes beyond the one-year authorization of expenditures provided for in HB 1843. Their plan is an eight-year plan that takes place in three phases.

NEAR TERM PHASE

The first phase will start immediately and will be completed in 15 months. Estimated expenditures are \$3.1 million for this period, and cumulative expenditures over the life of the eight-year plan are \$13.9 million.

NCDOT expenditures consist of:

- A. Hiring 6 permanent employees in the MIS Division: \$347,508 (full fiscal year cost)
- B. 10,400 hours of consultant time at \$50/hour
- C. 11 personal computers for use by the 6 additional DOT employees and the consultants
- D. \$6000/month rent for additional space to house the computers, new DOT personnel, and consultants
- E. Purchase of 300 cellular telephones to put in all DMV Enforcement Section vehicles
- F. Cellular network service contract of \$150,000 per year to service the 300 cellular phones
- G. Additional SIPS mainframe charges of \$240,000/year
- H. A one-time consultant fee of \$125,000 to transfer NC's motor fuel taxpayer database from the Lockheed Corporation to the Department of Revenue
- I. \$100,000 for DOT to advertise the enhanced enforcement efforts
- J. Additional expenses of \$33,000 for training of personnel and maintenance of the new data processing equipment

The Department of Revenue's estimated expenditures consist of:

- A. Hiring of 10 permanent employees in the Motor Fuels Tax Division at \$461,112 (full FY cost)
- B. \$380,500 in additional data processing equipment
- C. Additional office space rental at \$1,350/month
- D. Additional expenses totaling \$38,756 in new employee support (travel, utilities, telephone and postage) plus a one-time office furniture expense of \$6000

The goal of the first phase of the eight-year plan is to develop a database system of motor carrier activity that can be accessed by DMV enforcement personnel. From weigh station terminals and from cellular telephones in enforcement vehicles, DMV will check on the status of a motor carrier account for both fuel tax and DMV violations. If found to be delinquent, the tax can be collected or the truck can be detained. In addition, motor carriers will be expected to provide certain information to DMV personnel at all weigh stations, such as estimates of miles driven in North Carolina and amounts of fuel purchased in the state. Data collection and data entry at this phase are manual. The Department of Revenue will cross-check this data with their fuel tax accounts. They'll be looking for DMV reports on truckers who consistently report no fuel tax mileage in North Carolina.

INTERMEDIATE PHASE

The intermediate phase will start in early 1996 and be completed in 1999. Estimated expenditures during this period are \$4.5 million, and total expenditures are \$5.6 million.

In general, expenditures here consist of buying personal computers for DMV enforcement vehicles and beginning the modernization of the entire computer system in the enforcement section of the Division of Motor Vehicles. The software in several sections, such as Motor Carrier Safety and Overweight Penalties, will be rewritten. Major expenses during this phase are consultant costs of \$3.1 million and vehicular PC purchases of \$900,000, plus some rental expenses of additional floor space.

LONG TERM PHASE

The long-term phase begins in 1999 and is completed in 2001. Estimated expenditures in this period are \$4.1 million.

Expenditures in this phase consist of establishing a state IVHS (Intelligent Vehicle Highway System). A detailed expenditure list will be developed in future years after a national committee recommends a list of standards for all states to incorporate in their programs. Anticipated recommendations are utilizing transponders or bar codes on trucks to collect identifying data electronically while the trucks are in motion. The Department of Revenue also intends to establish an electronic funds transfer program for motor carriers to pay their quarterly fuel tax payments.

MANDATED REPORTS

MANDATED REPORTS

The Department of Transportation has submitted to the Transportation Oversight Committee all reports either mandated by the General Assembly or requested by the Committee members and staff. The key findings and recommendations of each report are summarized below.

EMISSIONS INSPECTION PROGRAM - QUARTERLY REPORT

The effective date for the new state emission law was October 1, 1994. The new law was designed to place North Carolina in compliance with EPA regulations on inspection and maintenance (I/M) programs as required by the Clean Air Act. DMV reports an I/M budget of \$2,031,586 in 1994-95. The new law places these funds in a dedicated nonreverting fund. There are 28 Emission inspectors that cover 1,281 stations in 19 counties. The new law creates additional audits for the staff to perform. The law also requires computer matching of emissions inspection records with registration information. This computer matching system will not be ready until March 1995.

RESERVE FUNDS

The General Assembly estimated that the 1993-94 credit balance in the Highway Fund would be \$40.5 million due to reversions and revenue in excess of estimates. The actual credit balance for last fiscal year came in at \$54,963,878.87. The \$14,463,878 in unanticipated revenue was placed into the following reserves:

Aid to Municipalities	\$737,081.00
Secondary Road Construction	737,081.00
Uncollectible Accounts	57,490.06
Operations Administration ⁽¹⁾	1,054,991.00
Increased Subsistence Allowance ⁽²⁾	200,000.00
Emergencies/Public Access Roads	2,000,000.00
Highway Maintenance	9,677,235.81
	<u>\$14,463,878.87</u>

- (1) Includes \$400,000 to match federal grant on motor carriers and \$580,000 for DMV telephones.
- (2) General Assembly increased subsistence rates, but failed to increase Highway Fund budget.

SMALL BUSINESS ENTERPRISE PROGRAM - QUARTERLY REPORT

The first projects in this program were let to contract in February, 1994. From February to October 1994, 496 projects were awarded to small businesses totaling \$8.9 million. Of this amount, 9% went to minority owned businesses and 23% went to women owned businesses.

CARAT UPDATE

The Congestion Avoidance and Reduction for Autos and Trucks (CARAT) program was initiated in 1992 in the Charlotte urban area. This project will utilize traffic management technologies to reduce congestion on I-77. To date, DOT has written a CARAT proposal and area-wide plan, prepared contract documents, started a Motorist Assistance Patrol, obtained variable message signs and highway advisory radio, and upgraded alternate routes.

RIGHT-OF-WAY MOWING CONTRACTS

DOT began contract mowing in 1986 and now 70% of all road miles are mowed by contractors. In 1994, 92 counties used private mowers under a 1, 2, or 3 year contract. The overall performance by these contractors was good.

In 1993, the cost per shoulder mile for mowing by state forces was \$25.19, while the cost per mile for contractors was \$23.56. 22 contractors do the state's mowing with Dixie Lawn Service controlling contracts for 32 counties.

ADOPT-A-HIGHWAY PROGRAM

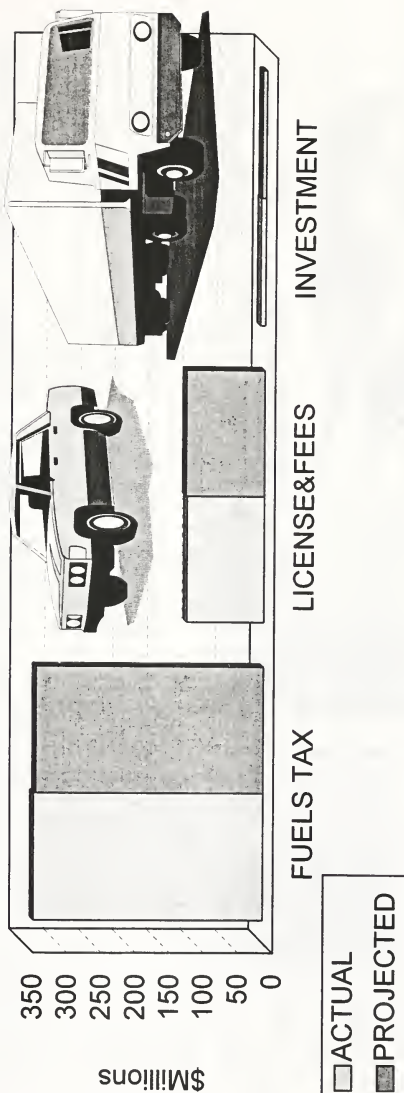
This report reviewed the legal issues relating to the use of contract services to clean the roadsides under the Adopt-a-highway program. Department of Justice attorneys argue that the firm contracting out its roadside cleanup could be violating 1) the law against advertising on highway right-of-way, 2) the Umstead Act by competing with the private billboard industry, and 3) state purchasing laws that authorize the Secretary of Administration to contract for services. The Department of Justice says contracting out could be a violation of the law, but does not definitively state that it is a violation. If the General Assembly is interested in allowing businesses to contract out their roadside cleanup duties for Adopt-a-highway, then the Departments of Justice and Transportation suggests legislation be approved for that purpose. There is currently no statute

authorizing the Adopt-a-highway program. DOT is opposed to the commercialization of this program.

APPENDIX

HIGHWAY FUND REVENUES

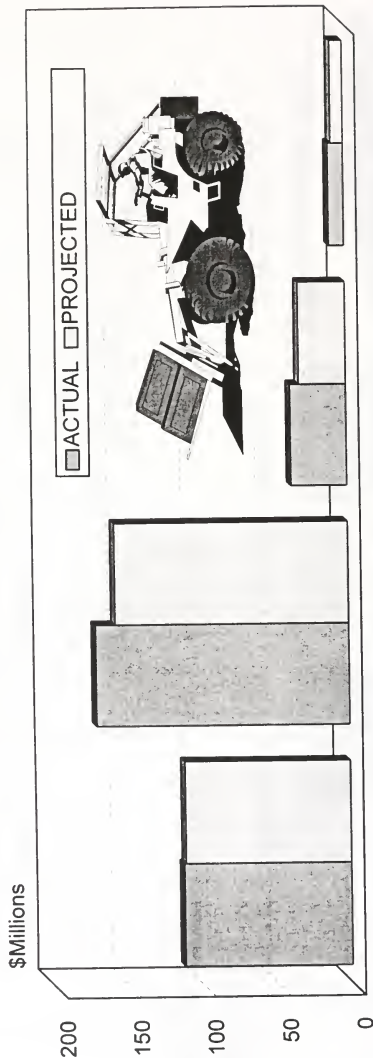
JULY - DECEMBER FY1994-95



	ACTUAL	PROJECTED	OVERAGE
FUELS TAXES	\$335.4	\$332.2	\$3.2
DMV FEES	\$112.5	\$114.5	-\$2.0
INVESTMENT	\$7.5	\$6.5	\$1.0
SIX-MONTH TOTAL	\$455.4	\$453.2	\$2.2

HIGHWAY TRUST FUND REVENUES

JULY-DECEMBER FY1994-95



FUELS TAXES

HIGHWAY USE TAXES

TITLE FEES

INVESTMENT

	ACTUAL	PROJECTED	OVERAGE
FUELS TAXES	\$111.8	\$110.6	\$1.2
HIGHWAY USE TAX	\$169.8	\$156.5	\$13.3
TITLE FEES	\$37.5	\$31.6	\$5.9
INVESTMENT	\$10.4	\$8.3	\$2.1
SIX-MONTH TOTAL	\$329.5	\$307.0	\$22.5

Route	Total Miles	Route Status PE ROW Const.	Fully Funded Construction Miles % of Total	Remaining Costs Per 6/94 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/94	State Dollars Authorized As of 12/31/94	Total Dollars Authorized As of 12/31/94
I-40	21.4	X X X	1.3 8.1%	110,498,000	25,274,395		25,274,395
I-77	8.9	X X X	10.9 122.5%	12,600,000	26,485,000	31,245,798	57,730,798
I-85	68.1	X X X	57.0 83.7%	128,723,000	308,868,854	51,377,865	380,246,319
I-86	N/A		N/A	3,400,000			
US-1	100.1	X X X	25.1 25.1%	214,450,000	34,097,896	94,791,445	129,489,341
US-13	45.9	X	6.0%	106,270,000	800,000	600,000	1,400,000
US-17	188.8	X X X	36.9 19.5%	591,753,000	5,926,085	77,908,197	83,834,282
US-19/19E	29.7		0.0%	44,400,000			
US-19	28.1	X X X	1.0 3.6%	281,877,000	3,319,133		3,319,133
US-23	30.0	X X X	3.0 9.9%	201,830,000	23,017,956	5,708,949	28,726,905
US-23-441	11.4	X X X	6.0 52.6%	7,125,000	6,256,287	20,468,000	26,722,287
US-52	22.5	X X X	12.6 56.0%	39,200,000	39,351,993	45,700,599	85,052,592
US-64 (95 to US17)	98.5	X X X	12.9 13.1%	341,135,000	19,517,710	62,285,777	81,803,487
US-64 (Lex to Rai)	84.9	X X X	12.0 14.1%	142,680,000	35,140,928	12,405,952	47,546,880

Route	Total Miles	Total Route Status PE ROW Const.	Fully Funded Construction Miles % of Total	Remaining Costs Per 6/94 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/94	State Dollars Authorized As of 12/31/94	Total Dollars Authorized As of 12/31/94
US-70	64.9	X X	8.2 9.6%	292,082,000	13,888,176	14,041,329	28,029,505
US-74	61.7	X X	1.0 1.9%	318,285,000	42,427,500	19,365,798	61,793,298
US-74 (I26 to I85)	18.3	X X	18.3 100.0%	0	18,538,110	28,058,175	46,596,285
US-158	240.3	X X	10.6 4.4%	479,825,000	725,000	41,412,237	42,137,237
Bridge	9.9	X	0.0%	48,350,000		375,000	375,000
US-221	70.2	X X	2.0 2.8%	162,970,000	11,625,758	3,709,111	15,334,869
US-220	30.1	X X	20.7 68.8%	149,135,000	49,707,903	36,484,800	86,192,703
US-220 (to VA line)	30.6	X X	6.7 21.8%	18,500,000		19,300,000	19,300,000
US-264	27.1	X X	14.4 53.1%	116,825,000	24,898,849	22,845,369	47,744,218
US-321	38.5	X X	13.4 34.9%	69,670,000	47,643,770	15,269,939	62,918,709
US-421 (TN to MD)	63.3	X X	9.9 15.6%	232,387,000	9,445,702	25,549,053	34,994,755
US-421 (G'boro to Sanford)	37.4	X X	12.3 32.9%	132,650,000	19,840,395		19,840,395
NC-24 (& NC-24-27)	211.7	X X	33.4 15.8%	498,166,500	32,364,885	45,207,398	77,562,283

Route	Total Miles	Route Status PE ROW Const.	Fully Funded Construction Miles % of Total	Remaining Costs Per 6/94 TIP (Excludes PE)	Federal Dollars Authorized As of 12/31/94	State Dollars Authorized As of 12/31/94	Total Dollars Authorized As of 12/31/94
NC-87	81.2	X X X	10.6 13.1%	166,717,500	30,804,977	22,647,495	53,452,472
NC-105	14.6		0.0%	34,700,000			
NC-168	18.5	X X X	0.0%	24,040,000		11,818,000	11,818,000
NC-194	10.3		0.0%	26,850,000			
TOTAL INTRASTATE	1756.9		336.2 19.3%	4,967,072,000	830,862,082	708,574,088	1,539,236,168
Asheville Western Loop	3.2		0.0%	99,300,000			
Charlotte Outer Loop	68.1	X X X	20.0 29.3%	578,704,000	225,718,624	21,505,080	247,223,704
Durham Northern Loop	16.4	X	0.0%	88,850,000		1,500,000	1,500,000
Greensboro Loop	41.6	X X	0.0%	513,700,000	10,371,500	5,082,822	15,454,322
Raleigh Outer Loop	38.0	X X X	5.1 13.4%	412,832,000	134,954,342	18,734,666	153,689,008
Wilmington Bypass	20.2	X	0.0%	157,525,000	600,000	850,000	1,450,000
Winston-Salem N Belt	24.5	X	0.0%	305,800,000		1,250,000	1,250,000
TOTAL LOOPS	212.0		26.1 11.8%	2,156,811,000	371,644,468	48,832,568	420,577,034

**JOINT LEGISLATIVE
TRANSPORTATION OVERSIGHT
COMMITTEE**



**REPORT TO THE
1995 GENERAL ASSEMBLY
OF NORTH CAROLINA
1996 REGULAR SESSION**

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TABLE OF CONTENTS


LETTER OF TRANSMITTAL.....	i
COMMITTEE MEMBERSHIP.....	ii
PREFACE.....	iii
COMMITTEE PROCEEDINGS.....	1
RECOMMENDATIONS.....	5
1. AN ACT TO EXPEDITE DISPOSAL OF UNCLAIMED VEHICLES BY TOWING AND STORAGE BUSINESSES.....	5
2. AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH SPEED LIMITS UP TO SEVENTY MILES PER HOUR ON CONTROLLED ACCESS HIGHWAYS.....	12
3. AN ACT TO ALLOW UTILITY POLES CARRIED ON SIDE-LOADERS TO EXTEND MORE THAN THREE FEET BEYOND THE FRONT BUMPER OF THE VEHICLE.....	18
4. AN ACT TO PROHIBIT VEHICLE TOWING OF PERSONS ON SLEDS OR SIMILAR DEVICES.....	22
5. AN ACT TO ELIMINATE THE ONE DOLLAR FEE FOR MAIL-IN VEHICLE REGISTRATION.....	24
6. AN ACT TO ALLOW COUNTIES TO ELECTRONICALLY REMOVE A VEHICLE REGISTRATION TAX BLOCK UPON FULL PAYMENT OF PROPERTY TAXES.....	27
7. AN ACT TO DELETE THE UNNECESSARY "L" ENDORSEMENT FOR A COMMERCIAL DRIVERS LICENSE.....	29
8. AN ACT TO ESTABLISH A STANDARD TIME PERIOD OF 60 DAYS IN WHICH TO OBTAIN OR CHANGE A DRIVERS LICENSE, A SPECIAL IDENTIFICATION CARD, OR A VEHICLE REGISTRATION.....	32
9. AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO USE DIFFERENT COLOR BORDERS TO DISTINGUISH THE AGE OF LICENSE HOLDERS, THEREBY MAKING IT EASIER TO ISSUE DUPLICATE LICENSES BY MAIL WHEN THE PHOTOGRAPH ON THE ORIGINAL LICENSE IS A DIGITIZED IMAGE.....	40
10. AN ACT TO CONFORM THE MOTOR VEHICLE LAWS TO THE FEDERAL DEREGULATION OF TRUCKING AND TO MAKE TECHNICAL CHANGES TO THE MOTOR VEHICLE LAW.....	43
11. AN ACT TO REQUIRE ALL VEHICLE REGISTRATION OFFICES OF THE DIVISION OF MOTOR VEHICLES TO BE OPERATED BY A CONTRACT AGENT.....	76
SUMMARY OF MANDATED REPORTS.....	79

May 1, 1996

TO THE MEMBERS OF THE 1995 GENERAL ASSEMBLY (REGULAR SESSION 1996):

The Joint Legislative Transportation Oversight Committee submits its annual report to you for your consideration. The report was prepared by the Committee pursuant to G.S. 120-70.51(a).

Respectfully submitted,


Rep. Joanne Bowie
Co-chair


Senator David Hoyle
Co-chair

Joint Legislative Transportation Oversight Committee

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1995 - 1996**

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PREFACE

The Joint Legislative Transportation Oversight Committee was established in 1989 by Article 12E of Chapter 120 of the General Statutes. The Committee was formed in conjunction with the creation of the Highway Trust Fund. The Committee consists of eight members of the Senate appointed by the President Pro Tempore of the Senate and eight members of the House of Representatives appointed by the Speaker of the House of Representatives. Members serve two-year terms.

The Committee's oversight powers are broad, as quoted from G.S. 120-70.51(a):

- Review reports prepared by the Department of Transportation or any other agency of State government related, in any manner, to transportation, when those reports are required by law.
- Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund, the Highway Fund, the General Fund, or any other fund, when those expenditures are related, in any manner, to transportation.
- Determine whether funds related, in any manner, to transportation are being spent in accordance with law.
- Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation may be used, including revisions needed to meet any statutory timetable or program.
- Report to the General Assembly at the beginning of each regular session concerning its determination of needed changes in the funding or operation of programs related, in any manner, to transportation.

**COMMITTEE
PROCEEDINGS**

Following the 1995 Session of the General Assembly, the Joint Legislative Transportation Oversight Committee met seven times from October 1995 to May 1996. The Committee examined a variety of topics which are briefly summarized below.

October 10, 1995

The first meeting of the Committee following the 1995 Session was held on October 10, 1995 at 10:00 a.m. in room 544 of the Legislative Office Building. The Committee first heard a presentation by DOT Secretary Garland Garrett, who introduced DOT Division Directors and offered his assistance to the Committee. The Committee then heard a review of action taken during the 1995 session on the committee's recommendations and a summary of other transportation issues considered during the 1995 session. The Committee then moved to the topic of hazardous waste contamination at seventy-two asphalt plant sites around the state. Following this discussion, Grayson Kelley of the Attorney General's Office outlined the impact of recent Supreme Court decisions on DOT's minority goals program.

November 1, 1995

The Committee's second fall meeting was held November 1, 1995 at Forsyth Technical College in Winston-Salem. The Committee heard from the Mayors of Winston-Salem and Greensboro, a member of the Forsyth Board of Commissioners, and concerned citizens on the area's transportation needs. Committee staff then presented a comparison of the North Carolina and Virginia DMV and heard from a Virginia DMV official. Following this presentation, the Committee received comments from the towing industry in support of House Bill 853, Motor vehicle towing modifications. Committee staff then reported on fuel tax exemptions for community colleges. DOT presented reports on General Services consolidation, and the maintenance backlog. Finally, Committee staff updated progress on the Highway Fund/Highway Trust Fund financial model.

December 6, 1995

The third meeting of the Committee was held December 6, 1995 in room 544 of the Legislative Office Building. The Committee first heard a staff presentation on funding of state-assisted visitor centers. Representatives of visitor centers in western and northeastern North Carolina spoke about the services offered by their respective facilities. DOT presented reports on renovations to the Raleigh District Drive facility, and on consolidation of DOT General Services. Next, the Committee heard from a citizen of Valle Crucis about the design of a new bridge in that area and his concerns about public input in the DOT decision making process. Staff reviewed federal and state public participation requirements, and DOT explained their public participation process. The Committee then continued its discussion of the asphalt plant clean-up issue. Finally, the Committee received a staff report on motor vehicle towing and storage and requested a bill draft for consideration at the next meeting.

January 31, 1996

The Committee met on January 31, 1996 at 10:00 a.m. in room 544 of the Legislative Office Building. The Committee first discussed Committee staff changes, and then received a staff report on the National Highway System Bill. Next, the Committee discussed and approved a bill to allow DOT to set speed limits up to 70 mph on non-interstate limited access highways. The committee then heard a background report on the EPA audit of the DMV emissions program. The Committee then considered and approved a draft bill to expedite disposal of towed and stored vehicles and a draft bill to allow utility companies to carry poles that extend more than three feet beyond the front of their vehicles. Committee staff then presented a report on DMV implementation of the window tinting law changes. The members joined the State Ports Study Committee in a joint afternoon meeting, which focused on the transportation needs of the State Ports.

March 6, 1996

The Committee met on March 6, 1996 at the Cone University Center of the University of North Carolina at Charlotte. In the morning, the Committee heard from interested parties on proposed legislation to issue bonds to expedite the construction of urban loops in North Carolina. In the afternoon, the Committee heard a report from DOT on consolidation of DOT General Services, a report from committee staff on the motor fleet study, and a report from DOT on the impact of federal budget cuts on public transit funding in NC. The Committee also received a report on I-73/74, and suggestions from DOT for various changes to the statutes requested for the 1996 session. The Committee asked that these suggestions be drafted for consideration at the next meeting. Finally, the Committee received an update from DOT on road maintenance costs attributable to the harsh winter.

April 10, 1996

The Committee met on April 10, 1996 at 9:00 a.m. in room 544 of the Legislative Office Building. The committee considered and approved bill drafts on (1) prohibiting sleds from being pulled behind vehicles; (2) deleting from the statutes the unnecessary "L" endorsement for commercial drivers licenses; (3) establishing a standard time period of 60 days in which to obtain or change a drivers license, ID card, or registration; (4) allowing DMV to use different color borders on drivers licenses to allow duplicate licenses to be issued by mail; (5) allowing counties to electronically remove registration blocks upon payment of property taxes; and (6) eliminating the \$1 mail-in vehicle registration fee. The text of these proposals may be found in the legislative proposal section of this report. The Committee also approved an extension of the Highway fund/Highway trust fund financial model contract, decided to take no further action on proposed changes to Motor fleet management of DOT vehicles, and heard an update on DOT's accounting system project. Next, the committee received the annual report of the triangle transit authority, and a report from Duke graduate students on the best source of funding for the mid-Currituck County bridge. The committee also received a DMV report on motor vehicle registration cost comparisons,

the impact of the Federal Privacy Act on DMV, and "STARS", the new vehicle titling and registration computer system. The committee received a bill to conform NC law to the federal deregulation of trucking and a DMV report on mail-in vehicle registration.

May 1, 1996

The Committee met on May 1, 1996 at 9:00 a.m. in Room 1228 of the Legislative Building. The Committee considered and approved legislation concerning privatization of DMV Offices in Raleigh and Charlotte, and conforming North Carolina law to the recent federal law changes governing intrastate motor carriers. In addition, the Committee heard reports on implementation of the dealer plate law, the visitor center funding subcommittee, and the Highway Fund/Highway Trust Fund financial model. The Committee also reviewed and approved this report for transmittal to the 1996 Regular Session of the 1995 General Assembly.

**RECOMMENDATIONS
&
LEGISLATIVE PROPOSALS**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

LEGISLATIVE PROPOSAL 1

96-RWZ-004A

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

D

Short Title: Expedite Towed Vehicle Disposal.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXPEDITE DISPOSAL OF UNCLAIMED VEHICLES BY TOWING AND STORAGE BUSINESSES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-77(d) reads as rewritten:

"(d) An operator of a place of business for garaging, repairing, parking or storing vehicles for the public in which a vehicle remains unclaimed for ~~30 days~~, 10 days, or the landowners upon whose property a motor vehicle has been abandoned for more than ~~60 days~~, 30 days, shall, within five days after the expiration of that period, report the vehicle as unclaimed to the Division. Failure to make such report shall constitute a Class 3 misdemeanor.

Any vehicle which remains unclaimed after report is made to the Division may be sold by such operator or landowner in accordance with the provisions relating to the enforcement of liens and the application of proceeds of sale of Article 1 of Chapter 44A."

Sec. 2. G.S. 44A-4(a) reads as rewritten:

"(a) Enforcement by Sale. -- If the charges for which the lien is claimed under this Article remain unpaid or unsatisfied for 30 days ~~days~~ or, in the case of towing and storage charges on a

1 motor vehicle, 10 days following the maturity of the obligation
2 to pay any such charges, the lienor may enforce the lien by
3 public or private sale as provided in this section. The lienor
4 may bring an action on the debt in any court of competent
5 jurisdiction at any time following maturity of the obligation.
6 Failure of the lienor to bring such action within a 180-day
7 period following the commencement of storage shall constitute a
8 waiver of any right to collect storage charges which accrue after
9 such period. Provided that when property is placed in storage
10 pursuant to an express contract of storage, the lien shall
11 continue and the lienor may bring an action to collect storage
12 charges and enforce his lien at any time within 120 days
13 following default on the obligation to pay storage charges.

14 The owner or person with whom the lienor dealt may at any time
15 following the maturity of the obligation bring an action in any
16 court of competent jurisdiction as by law provided. If in any
17 such action the owner or other party requests immediate
18 possession of the property and pays the amount of the lien
19 asserted into the clerk of the court in which such action is
20 pending, the clerk shall issue an order to the lienor to
21 relinquish possession of the property to the owner or other
22 party. The request for immediate possession may be made in the
23 complaint, which shall also set forth the amount of the asserted
24 lien and the portion thereof which is not in dispute, if any. If
25 within three days after service of the summons and complaint, as
26 the number of days is computed in G.S. 1A-1, Rule 6, the lienor
27 does not file a contrary statement of the amount of the lien at
28 the time of the filing of the complaint, the amount set forth in
29 the complaint shall be deemed to be the amount of the asserted
30 lien. The clerk may at any time disburse to the lienor that
31 portion of the cash bond, which the plaintiff says in his
32 complaint is not in dispute, upon application of the lienor. The
33 magistrate or judge shall direct appropriate disbursement of the
34 disputed or undisbursed portion of the bond in the judgment of
35 the court. In the event an action by the owner pursuant to this
36 section is heard in district or superior court, the substantially
37 prevailing party in such court may be awarded a reasonable
38 attorney's fee in the discretion of the judge."

39 Sec. 3. G.S. 44A-4(b)(1) reads as rewritten:

"(1) If the property upon which the lien is claimed is a motor vehicle that is required to be registered, the lienor following the expiration of the 30-day period provided by subsection (a) shall give notice to the Division of Motor Vehicles that a lien is asserted and sale is proposed and shall remit to the Division a fee of ten dollars (\$10.00). The Division of Motor Vehicles shall issue notice by registered or certified mail, return receipt requested, within 15 days of receipt of notice from the lienor, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party and other person claiming an interest in the property who is actually known to the Division or who can be reasonably ascertained. The notice shall state that a lien has been asserted against specific property and shall identify the lienor, the date that the lien arose, the general nature of the services performed and materials used or sold for which the lien is asserted, the amount of the lien, and that the lienor intends to sell the property in satisfaction of the lien. The notice shall inform the recipient that the recipient has the right to a judicial hearing at which time a determination will be made as to the validity of the lien prior to a sale taking place. The notice shall further state that the recipient has a period of 10 days from the date of receipt in which to notify the Division by registered or certified mail, return receipt requested, that a hearing is desired and that if the recipient wishes to contest the sale of his property pursuant to such lien, the recipient should notify the Division that a hearing is desired and the Division shall notify lienor. The notice shall state the required information in simplified terms and shall contain a form whereby the recipient may notify the Division that a hearing is desired by the return of such form to

the Division. Failure of the recipient to notify the Division within 10 days of the receipt of such notice that a hearing is desired shall be deemed a waiver of the right to a hearing prior to the sale of the property against which the lien is asserted, the Division shall notify the lienor, and the lienor may proceed to enforce the lien by public or private sale as provided in this section and the Division shall transfer title to the property pursuant to such sale. If the Division is notified within the 10-day period provided above that a hearing is desired prior to sale, the lien may be enforced by sale as provided in this section and the Division will transfer title only pursuant to the order of a court of competent jurisdiction.

If the Division notifies the lienor that the registered or certified mail notice has been returned as undeliverable, the lienor may institute a special proceeding in the county where the vehicle is being held, for authorization to sell that vehicle.

If the market value of the vehicle, as determined by the schedule of values adopted by the Commissioner under G.S. 105-187.3, is less than eight hundred dollars (\$800.00) and one of the following applies, the lienor may institute a special proceeding in the county where the vehicle is being held for authorization to sell the vehicle:

a. The registered or certified mail notice has been delivered and no hearing was requested.

b. The person having legal title to the vehicle, the person with whom the lienor dealt if different, and each secured party or other person claiming an interest in the vehicle cannot be ascertained by the Division.

In such a proceeding a lienor may include more than one vehicle, but the proceeds of the sale of each shall be subject only to valid claims against that vehicle, and any excess proceeds of the sale

shall escheat to the State and be paid immediately to the treasurer for disposition pursuant to Chapter 116B of the General Statutes. A vehicle owner or possessor claiming an interest in such proceeds shall have a right of action under G.S. 116B-38.

The application to the clerk in such a special proceeding shall contain the notice of sale information set out in subsection (f) hereof. If the application is in proper form the clerk shall enter an order authorizing the sale on a date not less than 14 days therefrom, and the lienor shall cause the application and order to be sent immediately by first-class mail pursuant to G.S. 1A-1, Rule 5, to each person to whom the Division has mailed notice pursuant to this subsection. Following the authorized sale the lienor shall file with the clerk a report in the form of an affidavit, stating that two or more bona fide bids on the vehicle were received, the names, addresses and bids of the bidders, and a statement of the disposition of the sale proceeds. The clerk then shall enter an order directing the Division to transfer title accordingly.

If prior to the sale the owner or legal possessor contests the sale or lien in a writing filed with the clerk, the proceeding shall be handled in accordance with G.S. 1-399."

Sec. 4. G.S. 44A-4(e) reads as rewritten:

"(e) Public Sale. --

(1) Not less than 20 days prior to sale by public sale the lienor:

- a. Shall notify the Commissioner of Motor Vehicles as provided in G.S. 20-114(c) if the property upon which the lien is claimed is a motor vehicle; and
- a1. Shall cause notice to be mailed to the person having legal title to the property if reasonably ascertainable, to the person with whom the lienor dealt if different, and to

each secured party or other person claiming an interest in the property who is actually known to the lienor or can be reasonably ascertained, provided that notices provided pursuant to subsection (b) hereof shall be sufficient for these purposes if such notices contain the information required by subsection (f) hereof; and

b. Shall advertise the sale by posting a copy of the notice of sale at the courthouse door in the county where the sale is to be held;

and shall publish notice of sale once a week for two consecutive weeks in a newspaper of general circulation in the same county, the date of the last publication being not less than five days prior to the ~~sale~~ sale if the vehicle is less than five years old.

(2) A public sale must be held on a day other than Sunday and between the hours of 10:00 A.M. and 4:00 P.M.:

a. In any county where any part of the contract giving rise to the lien was performed, or

b. In the county where the obligation secured by the lien was contracted for.

(3) A lienor may purchase at public sale."

Sec. 5. This act becomes effective October 1, 1996.

Explanation of Legislative Proposal 1

Currently, towing and storage businesses report that it takes six months or longer to dispose of vehicles towed to their lots that are stored but never claimed. To expedite this process, the draft bill would:

1. Require report to DMV in 10 days.

Sections 1 and 2 of the draft bill would require towing/storage businesses to report unclaimed vehicles, and allow them to begin the process to sell the vehicle to satisfy the towing/storage lien, after 10 days. Currently, the towing/storage business waits 30 days, as provided by law, before reporting the vehicle to DMV and beginning the disposal process. In addition, landowners would have to report vehicles abandoned on their property after 30 days (now-60).

2. Require DMV to respond to towing business's notice in 15 days.

Section 3 of the draft bill would require DMV to respond to towing/storage business notices within 15 days of receipt. Under current law, after the towing business sends in notice to DMV, DMV then sends certified letters to the registered owner and any lienholders on the vehicle, notifying them of the lien, and the right to a hearing. DMV is currently 60-90 days behind on responding to towing/storage business notices.

3. Expedite disposal process for certain vehicles valued at less than \$800

Section 3 of the bill would authorize the faster Special Proceeding process to be used for vehicles valued at less than \$800, if:

- a. Notice by DMV to the registered owner and any lienholders is delivered, and no one requests a hearing; OR
- b. The registered owner and other lienholders cannot be ascertained by DMV.

4. Eliminate publication notice for older cars before private sale.

Section 4 of the bill would eliminate the requirement that notice be published before public sale of the vehicle unless the vehicle is less than 5 years old. Notice would still have to be mailed before public sale of older vehicles.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1996

D

LEGISLATIVE PROPOSAL 2

96-RWZ-001B

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Speed Limits.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE DEPARTMENT OF TRANSPORTATION TO ESTABLISH
SPEED LIMITS UP TO SEVENTY MILES PER HOUR ON DESIGNATED PARTS
OF CONTROLLED ACCESS HIGHWAYS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-141 reads as rewritten:

"§ 20-141. Speed restrictions.

(a) No person shall drive a vehicle on a highway or in a
public vehicular area at a speed greater than is reasonable and
prudent under the conditions then existing.

(b) Except as otherwise provided in this Chapter, it shall be
unlawful to operate a vehicle in excess of the following speeds:

(1) Thirty-five miles per hour inside municipal
corporate limits for all vehicles.

(2) Fifty-five miles per hour outside municipal
corporate limits for all vehicles ~~vehicles, except~~
~~on rural Interstate Highways where the speed limit~~
~~has been raised pursuant to G.S. 20-141(d)(2), and~~
except for school buses and school activity buses.

1 (c) Except while towing another vehicle, or when an advisory
2 safe-speed sign indicates a slower speed, or as otherwise
3 provided by law, it shall be unlawful to operate a passenger
4 vehicle upon the interstate and primary highway system at less
5 than the following speeds:

6 (1) Forty miles per hour in a speed zone of 55 miles
7 per hour.

8 (2) Forty-five miles per hour in a speed zone of 60
9 miles per hour or greater.

10 These minimum speeds shall be effective only when appropriate
11 signs are posted indicating the minimum speed.

12 (d) (1) Whenever the Department of Transportation
13 determines on the basis of an engineering and
14 traffic investigation that any speed allowed by
15 subsection (b) is greater than is reasonable and
16 safe under the conditions found to exist upon any
17 part of a highway outside the corporate limits of a
18 municipality or upon any part of a highway
19 designated as part of the Interstate Highway System
20 or ~~other~~ any part of a controlled-access highway
21 (either inside or outside the corporate limits of a
22 municipality), the Department of Transportation
23 shall determine and declare a reasonable and safe
24 speed limit.

25 (2) Whenever the Department of Transportation
26 determines on the basis of an engineering and
27 traffic investigation that a higher maximum speed
28 than those set forth in subsection (b) is
29 reasonable and safe under the conditions found to
30 exist upon any part of a highway designated as part
31 of the Interstate Highway System or ~~other~~ any part
32 of a controlled-access highway (either inside or
33 outside the corporate limits of a municipality) the
34 Department of Transportation shall determine and
35 declare a reasonable and safe speed limit. A speed
36 limit set pursuant to this subsection may not
37 exceed 70 miles per hour. ~~The Department of~~
38 ~~Transportation shall set the speed limit not to~~
39 ~~exceed that allowed by applicable Federal law on~~

~~any part of the Interstate Highway System that they
deem to be safe.~~

Speed limits set pursuant to this subsection are not effective until appropriate signs giving notice thereof are erected upon the parts of the highway affected.

(e) Local authorities, in their respective jurisdictions, may authorize by ordinance higher speeds or lower speeds than those set out in subsection (b) upon all streets which are not part of the State highway system; but no speed so fixed shall authorize a speed in excess of 55 miles per hour. Speed limits set pursuant to this subsection shall be effective when appropriate signs giving notice thereof are erected upon the part of the streets affected.

(f) Whenever local authorities within their respective jurisdictions determine upon the basis of an engineering and traffic investigation that a higher maximum speed than those set forth in subsection (b) is reasonable and safe, or that any speed hereinbefore set forth is greater than is reasonable and safe, under the conditions found to exist upon any part of a street within the corporate limits of a municipality and which street is a part of the State highway system (except those highways designated as part of the interstate highway system or other controlled-access highway) said local authorities shall determine and declare a safe and reasonable speed limit. A speed limit set pursuant to this subsection may not exceed 55 miles per hour. Limits set pursuant to this subsection shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The Department of Transportation is authorized to raise or lower the statutory speed limit on all highways on the State highway system within municipalities which do not have a governing body to enact municipal ordinances as provided by law. The Department of Transportation shall determine a reasonable and safe speed limit in the same manner as is provided in G.S. 20-141(d)(1) and G.S. 20-141(d)(2) for changing the speed limits outside of municipalities, without action of the municipality.

(g) Whenever the Department of Transportation or local authorities within their respective jurisdictions determine on the basis of an engineering and traffic investigation that slow

1 speeds on any part of a highway considerably impede the normal
2 and reasonable movement of traffic, the Department of
3 Transportation or such local authority may determine and declare
4 a minimum speed below which no person shall operate a motor
5 vehicle except when necessary for safe operation in compliance
6 with law. Such minimum speed limit shall be effective when
7 appropriate signs giving notice thereof are erected on said part
8 of the highway. Provided, such minimum speed limit shall be
9 effective as to those highways and streets within the corporate
10 limits of a municipality which are on the State highway system
11 only when ordinances adopting the minimum speed limit are passed
12 and concurred in by both the Department of Transportation and the
13 local authorities. The provisions of this subsection shall not
14 apply to farm tractors and other motor vehicles operating at
15 reasonable speeds for the type and nature of such vehicles.

16 (h) No person shall operate a motor vehicle on the highway at
17 such a slow speed as to impede the normal and reasonable movement
18 of traffic except when reduced speed is necessary for safe
19 operation or in compliance with law; provided, this provision
20 shall not apply to farm tractors and other motor vehicles
21 operating at reasonable speeds for the type and nature of such
22 vehicles.

23 ~~(i) The Department of Transportation shall have authority to~~
24 ~~designate and appropriately mark certain highways of the State as~~
25 ~~truck routes.~~

26 (j) Any person convicted of violating this section by
27 operating a vehicle on a street or highway in excess of 55 miles
28 per hour and at least 15 miles per hour over the legal limit
29 while fleeing or attempting to elude arrest or apprehension by a
30 law-enforcement officer with authority to enforce the motor
31 vehicle laws is guilty of a Class 1 misdemeanor.

32 (j1) A person who drives a vehicle on a highway at a speed
33 that is more than 15 miles per hour more than the speed limit
34 established by law for the highway where the offense occurred is
35 guilty of a Class 2 misdemeanor.

36 (j2) A person who drives a motor vehicle in a highway work
37 zone at a speed greater than the speed limit set and posted under
38 G.S. 20-141 is responsible for an infraction and is required to
39 pay a penalty of one hundred dollars (\$100.00). A "highway work
40 zone" is the area between the first sign that informs motorists

1 of the existence of a work zone on a highway and the last sign
2 that informs motorists of the end of the work zone. This
3 subsection applies only if a sign posted at the beginning of the
4 highway work zone states the penalty for speeding in the work
5 zone.

6 ~~(k) The maximum speed limit on any public highway within the~~
7 ~~State of North Carolina shall not exceed 55 miles per hour except~~
8 ~~for those portions of the Interstate Highway System where the~~
9 ~~Department of Transportation sets a higher speed limit pursuant~~
10 ~~to subdivision (d)(2) of this section.~~

11 (l) Notwithstanding any other provision contained in G.S. 20-
12 141 or any other statute or law of this State, including
13 municipal charters, any speed limit on any portion of the public
14 highways within the jurisdiction of this State shall be uniformly
15 applicable to all types of motor vehicles using such portion of
16 the highway, if on November 1, 1973, such portion of the highway
17 had a speed limit which was uniformly applicable to all types of
18 motor vehicles using it. Provided, however, that a lower speed
19 limit may be established for any vehicle operating under a
20 special permit because of any weight or dimension of such
21 vehicle, including any load thereon. The requirement for a
22 uniform speed limit hereunder shall not apply to any portion of
23 the highway during such time as the condition of the highway,
24 weather, an accident, or other condition creates a temporary
25 hazard to the safety of traffic on such portion of the highway.

26 (m) The fact that the speed of a vehicle is lower than the
27 foregoing limits shall not relieve the operator of a vehicle from
28 the duty to decrease speed as may be necessary to avoid colliding
29 with any person, vehicle or other conveyance on or entering the
30 highway, and to avoid injury to any person or property.

31 (n) Notwithstanding any other provision contained in G.S. 20-
32 141 or any other statute or law of this State, the failure of a
33 motorist to stop his vehicle within the radius of its headlights
34 or the range of his vision shall not be held negligence per se or
35 contributory negligence per se."

36 Sec. 2. This act is effective upon ratification.

Explanation of Legislative Proposal 2

The National Highway System Designation Act of 1995, signed into law by the President on November 28, 1995, abolished the national 55 mph speed limit. North Carolina is now free to set its own speed limits on Interstate, other Federal, and State Highways.

Current North Carolina law sets the maximum State speed limit at 55 mph, except for Interstate Highways. On Interstates, NC DOT is authorized to set the speed limit up to 70 mph, based on its engineering and traffic investigation of the segment proposed for a higher speed limit.

The draft bill would return the N.C. speed limit law to pre-1975, before the national 55 mph speed limit was mandated by Federal Law. The bill would reestablish DOT's authority to set speed limits up to 70 mph on non-Interstate, controlled-access highways. In addition, the draft eliminates ambiguous and obsolete language added in the mid-70s amendments.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

LEGISLATIVE PROPOSAL 3

95-LJ-25 (1.3)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Utility Pole Extension.

(Public)

Sponsors: Senators Hoyle, Gulley, Horton, Kerr, Martin of Pitt,
Rand, Smith, and Speed.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW UTILITY POLES CARRIED ON SIDE-LOADERS TO EXTEND
MORE THAN THREE FEET BEYOND THE FRONT BUMPER OF THE VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-116(f) reads as rewritten:

"(f) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the ~~front wheels of such vehicle or the front bumper of such vehicle, if it is equipped with such a bumper.~~ foremost part of the vehicle. Under this subsection 'load' shall include the boom on a self-propelled vehicle.

A utility pole carried by a self-propelled pole carrier may extend beyond the front overhang limit set in this subsection if the pole cannot be dismembered, the pole is less than 80 feet in length, and either of the following circumstances apply:

(1) It is daytime and the front of the extending load of poles is marked by a flag of the type required by G.S. 20-117 for certain rear overhangs.

(2) It is nighttime, operation of the vehicle is required to make emergency repairs to utility service, and the front of the extending load of

1 poles is marked by a light of the type required by
2 G.S. 20-117 for certain rear overhangs.
3 As used in this subsection, a 'self-propelled pole carrier' is
4 a vehicle designed to carry a pole on the side of the vehicle at
5 a height of at least five feet when measured from the bottom of
6 the brace used to carry the pole. A self-propelled pole carrier
7 may not tow another vehicle when carrying a pole that extends
8 beyond the front overhang limit set in this subsection."
9 Sec. 2. This act becomes effective July 1, 1996.

Explanation of Legislative Proposal 3
Utility Pole Extension

This proposal creates an exception to the current limit on the length of a load that may extend beyond the front of a vehicle. The current limit, which is set in G.S. 20-116(f), is three feet. The proposal exempts self-propelled pole carriers from this limit in certain circumstances, effective July 1, 1996.

A self-propelled pole carrier is a side-loader vehicle that can carry utility poles on both sides of the vehicle, with the weight of the load distributed appropriately in front of and behind the vehicle. For the weight of the poles to be balanced, the poles need to extend more than 3 feet in front of the vehicle.

The poles are carried at a height of at least 5 feet from the ground when measured from the bottom of the brace used to carry the pole. This type of vehicle is used in lieu of a pole trailer towed by a truck-tractor. The overall length of the self-propelled pole carrier and the poles carried by the vehicle is 65 feet compared to an overall length of 104 feet for a pole trailer, towing unit, and overhanging poles. The proposal prohibits a self-propelled pole carrier from towing another vehicle.

The circumstances under which the bill allows a self-propelled pole carrier to exceed the 3-foot front overhang limit are when the vehicle is carrying a utility pole that cannot be dismembered and either of the following applies:

- (1) It is daylight and the front overhang is marked by a flag.
- (2) It is dark, is an emergency, and the front overhang is marked by a red light.

The proposal is recommended at the request of Duke Power Company. That company developed this type of vehicle in the mid 1980's to haul poles of more than 40 feet in length more safely and efficiently than hauling them on trailers. The company has been using these vehicles on the highways in South Carolina and off the highways in North Carolina. The company's experience with these vehicles is that they are safer than using a pole trailer and a towing unit.

Current law does not limit the length by which a load may overhang the rear of a vehicle. If the rear overhang is more than 4 feet, however, G.S. 20-117 requires the extending load to be marked by a red flag in the daytime and a red light at night. This proposal does not change the law on rear overhangs.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

LEGISLATIVE PROPOSAL 4

96-RWZ-014A

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Vehicle May Not Tow Sled.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT VEHICLE TOWING OF PERSONS ON SLEDS OR SIMILAR
DEVICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-123 is amended by adding the
following subsection to read:

"(d) No person shall tow on a highway of the State by means of a
vehicle a person on a sled, skis, skates, skateboard, or other
similar device not intended for highway use."

Sec. 2. This act becomes effective December 1, 1996.

Explanation of Legislative Proposal 4

This draft would amend the motor vehicle law to forbid the towing on a highway of persons on sleds, skates, or other devices not intended for highway use. Violation of this section would be punishable as infraction, with a penalty of up to \$100 (G.S. 20-176).

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

LEGISLATIVE PROPOSAL 5

96-RWZ-015A

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

D

Short Title: No Fee For Mail-In Registration.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO ELIMINATE THE ONE DOLLAR FEE FOR MAIL-IN VEHICLE
3 REGISTRATION.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-85.1 reads as rewritten:

6 § 20-85.1. Registration by mail; one-day title service; fees.

7 "(a) The owner of a vehicle registered in North Carolina may
8 renew that vehicle registration by mail. ~~A postage and handling~~
9 ~~fee of one dollar (\$1.00) per vehicle to be registered shall be~~
10 ~~charged for this service.~~

11 (b) The Commissioner and the employees of the Division
12 designated by the Commissioner may prepare and deliver upon
13 request a certificate of title, charging a fee of fifty dollars
14 (\$50.00) for one-day title service, in lieu of the title fee
15 required by G.S. 20-85(a). The fee for one-day title service
16 must be paid by cash or by certified check. The fee collected
17 under this subsection shall be credited to the Highway Trust
18 Fund.

1 ~~(c) The fee collected under subsection (a) shall be credited to~~
2 ~~the Highway Fund. The fee collected under subsection (b) shall~~
3 ~~be credited to the Highway Trust Fund."~~

4 Sec. 2. This act becomes effective December 1, 1996.

Explanation of Legislative Proposal 5

No fee for mail-in registration

This draft would eliminate the \$1 additional fee currently charged by the Division of Motor Vehicles to persons who renew their vehicle registration by mail.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

D

LEGISLATIVE PROPOSAL 6

96-RWZ-022A

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: County Remove Registration Block. (Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW COUNTIES TO ELECTRONICALLY REMOVE A VEHICLE
3 REGISTRATION TAX BLOCK UPON FULL PAYMENT OF PROPERTY TAXES.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-50.4 reads as rewritten:
6 "§ 20-50.4. Division to refuse to register vehicles on which
7 taxes are delinquent.
8 Upon receiving the list of motor vehicle owners and motor
9 vehicles sent by county tax collectors pursuant to G.S. 105-
10 330.7, the Division shall refuse to register for the owner named
11 in the list any vehicle identified in the list until either the
12 vehicle owner presents the Division with a paid tax receipt
13 identifying the vehicle for which registration was ~~refused~~,
14 ~~refused~~ or the county electronically certifies to the Division
15 that the tax has been paid. The Division shall not refuse to
16 register a vehicle for a person, not named in the list, to whom
17 the vehicle has been transferred in good faith. Where a motor
18 vehicle owner named in the list has transferred the registration
19 plates from the motor vehicle identified in the list to another
20 motor vehicle pursuant to G.S. 20-64 during the first vehicle's

1 tax year, the Division shall refuse registration of the second
2 vehicle until the vehicle owner presents the Division with a paid
3 tax receipt identifying the vehicle from which the plates were
4 ~~transferred~~ transferred or the county electronically certifies
5 to the Division that the tax has been paid. An electronic
6 certification by the county must be in the format required by the
7 Division.

8 Sec. 2. This act is effective upon ratification.

Explanation of Legislative Proposal 6

Current law requires DMV to "block" the registration of a vehicle that has outstanding property taxes. To remove the "block", the person affected must pay the tax at the county tax office, and then take the receipt to DMV.

This draft would allow counties, once the new DMV computer system is fully in operation, to remove the vehicle registration "block" electronically, at the time payment is received from the taxpayer.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

LEGISLATIVE PROPOSAL 7

95-LJ-30

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Delete "L" CDL Endorsement.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO DELETE THE UNNECESSARY "L" ENDORSEMENT FOR A COMMERCIAL DRIVERS LICENSE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-37.16(c) reads as rewritten:

"(c) Endorsements. -- The endorsements required to drive certain motor vehicles are as follows:

Endorsement	Vehicles That Can Be Driven
H	Vehicles carrying hazardous materials, other than tank vehicles
L	Double trailers that are longer combination vehicles
M	Motorcycles
N	Tank vehicles not carrying hazardous materials
P	Vehicles carrying passengers
T	Double trailers other than longer combination vehicles
X	Tank vehicles carrying hazardous materials.

1 To obtain an H or an X endorsement, an applicant must take a
2 test. This requirement applies when a person first obtains an H
3 or an X endorsement and each time a person renews an H or an X
4 endorsement. An applicant who has an H or an X endorsement issued
5 by another state who applies for an H or an X endorsement must
6 take a test unless the person has passed a test that covers the
7 information set out in 49 C.F.R. § 383.121 within the preceding
8 two years."

9 Sec. 2. This act is effective upon ratification.

Explanation of Legislative Proposal 7
Delete "L" CDL Endorsement

This proposal deletes a commercial drivers license endorsement that is unnecessary because it is not used now and never has been used by the Division of Motor Vehicles. The unnecessary endorsement is an "L" endorsement, which is described in the statute as an endorsement for double trailers that are longer combination vehicles. Reference to an "L" endorsement that does not exist is confusing and conflicts with current drivers license administration. The practice in this State and nationwide is to use "L" as a restriction, rather than an endorsement, that prohibits the holder of the license from driving a vehicle that has air brakes.

An endorsement is an authorization to drive certain vehicles for which a drivers license alone is not sufficient. To drive a vehicle for which an endorsement is required, a person must have a license and an endorsement. To obtain an endorsement, a person must pass an additional written test and often an additional skills test. A restriction limits the scope of a drivers license, such as by requiring the driver to wear glasses while driving. Both an endorsement and a restriction are noted on the face of a drivers license.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1995

S or H

D

LEGISLATIVE PROPOSAL 8
95-LJ-31(1.2)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: 60 Days To Change DMV Info.

(Public)

Sponsors: Transportation Oversight.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A STANDARD TIME PERIOD OF 60 DAYS IN WHICH TO
3 OBTAIN OR CHANGE A DRIVERS LICENSE, A SPECIAL IDENTIFICATION
4 CARD, OR A VEHICLE REGISTRATION.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 20-4.6 is repealed.
7 Sec. 2. G.S. 20-7(a) reads as rewritten:
8 "(a) License Required. -- To drive a motor vehicle on a
9 highway, a person must be licensed by the Division under this
10 Article or Article 2C of this Chapter to drive the vehicle and
11 must carry the license while driving the vehicle. The Division
12 issues regular drivers licenses under this Article and issues
13 commercial drivers licenses under Article 2C.
14 A license authorizes the holder of the license to drive any
15 vehicle included in the class of the license and any vehicle
16 included in a lesser class of license, except a vehicle for which
17 an endorsement is required. To drive a vehicle for which an
18 endorsement is required, a person must obtain both a license and
19 an endorsement for the vehicle. A regular drivers license is
20 considered a lesser class of license than its commercial
21 counterpart.

1 The classes of regular drivers licenses and the motor vehicles
2 that can be driven with each class of license are:

- 3 (1) Class A. -- A Class A license authorizes the holder
4 to drive any of the following:
5 a. A Class A motor vehicle that is exempt under
6 G.S. 20-37.16 from the commercial drivers
7 license requirements.
8 b. A Class A motor vehicle that has a combined
9 GVWR of less than 26,001 pounds and includes
10 as part of the combination a towed unit that
11 has a GVWR of at least 10,001 pounds.
12 (2) Class B. -- A Class B license authorizes the holder
13 to drive any Class B motor vehicle that is exempt
14 under G.S. 20-37.16 from the commercial drivers
15 license requirements.
16 (3) Class C. -- A Class C license authorizes the holder
17 to drive any of the following:
18 a. A Class C motor vehicle that is not a
19 commercial motor vehicle.
20 b. When operated by a volunteer member of a fire
21 department, a rescue squad, or an emergency
22 medical service (EMS) in the performance of
23 duty, a Class A or Class B fire-fighting,
24 rescue, or EMS motor vehicle or a combination
25 of these vehicles.

26 The Commissioner may assign a unique motor vehicle to a class
27 that is different from the class in which it would otherwise
28 belong.

29 A new resident of North Carolina who has a drivers license
30 issued by another jurisdiction must obtain a license from the
31 Division within ~~30~~ 60 days after becoming a resident."

32 Sec. 3. G.S. 20-7(f) reads as rewritten:

33 " (f) Expiration and Temporary License. -- The first drivers
34 license the Division issues to a person expires on the person's
35 fourth or subsequent birthday that occurs after the license is
36 issued and on which the individual's age is evenly divisible by
37 five, unless this subsection sets a different expiration date.
38 The first drivers license the Division issues to a person who is
39 at least 17 years old but is less than 18 years old expires on
40 the person's twentieth birthday. The first drivers license the
41 Division issues to a person who is at least 62 years old expires
42 on the person's birthday in the fifth year after the license is
43 issued, whether or not the person's age on that birthday is
44 evenly divisible by five.

1 A drivers license that was issued by the Division and is
2 renewed by the Division expires five years after the expiration
3 date of the license that is renewed. A person may apply to the
4 Division to renew a license during the 60-day period before the
5 license expires. The Division may not accept an application for
6 renewal made before the 60-day period begins.

7 ~~Any person serving in the armed forces of the United States on~~
8 ~~active duty and holding a valid drivers license properly issued~~
9 ~~under this section and stationed outside the State of North~~
10 ~~Carolina may renew the license by making application to the~~
11 ~~Division by mail. Any other person, except a nonresident, who~~
12 ~~holds a valid drivers license issued under this section and who~~
13 ~~is temporarily residing outside North Carolina, may also renew by~~
14 ~~making application to the Division by mail. For purposes of this~~
15 ~~section "temporarily" shall mean not less than 30 days continuous~~
16 ~~absence from North Carolina. In either case, the~~

17 The Division may renew by mail a drivers license issued by the
18 Division to a person who meets any of the following descriptions:

19 (1) Is serving on active duty in the armed forces of
20 the United States and is stationed outside this
21 State.

22 (2) Is a resident of this State and has been residing
23 outside the State for at least 30 continuous days.

24 When renewing a license by mail, the Division may waive the
25 examination and color photograph that would otherwise be required
26 for the renewal of a drivers license, for the renewal and may
27 impose in lieu thereof any conditions it considers appropriate to
28 each particular application, finds advisable. A license renewed
29 by mail is a temporary license that expires 30 60 days after the
30 person to whom it is issued returns to this State."

31 Sec. 4. G.S. 20-7.1 reads as rewritten:

32 "§ 20-7.1. Notification Notice of change of address, address or
33 name.

34 ~~Whenever the holder of a license issued under the provision of~~
35 ~~G.S. 20-7 has a change in the address as shown on such license,~~
36 ~~he or she shall apply for a duplicate license within 60 days~~
37 ~~after such address has been changed. Provided, that if the~~
38 ~~licensee's mailing address has been changed by governmental~~
39 ~~action and there has been no actual change of residence location,~~
40 ~~upon giving notice in writing to the Division of Motor Vehicles~~
41 ~~in Raleigh within 60 days of this change of address, the licensee~~
42 ~~may use his current license or permit until its expiration or~~
43 ~~obtain a duplicate license or permit showing the new address upon~~
44 ~~payment of the required fee. No person shall be charged with~~

1 ~~having violated this section when only his mailing address has~~
2 ~~been changed by governmental action.~~

3 (a) Address. -- A person whose address changes from the address
4 stated on a drivers license must notify the Division of the
5 change within 60 days after the change occurs. If the person's
6 address changed because the person moved, the person must obtain
7 a duplicate license within that time limit stating the new
8 address. A person who does not move but whose address changes
9 due to governmental action may not be charged with violating this
10 subsection.

11 (b) Name. -- A person whose name changes from the name stated
12 on a drivers license must notify the Division of the change
13 within 60 days after the change occurs and obtain a duplicate
14 drivers license stating the new name,

15 (c) Fee. -- G.S. 20-14 sets the fee for a duplicate license."

16 Sec. 5. G.S. 20-37.12(e) reads as rewritten:

17 "(e) ~~In accordance with G.S. 20-7, G.S. 20-7 sets the time~~
18 period in which a new resident of North Carolina has 30 days to
19 must obtain a license from the Division. The Commissioner may
20 establish by rule the conditions under which the test
21 requirements for a commercial drivers license may be waived for a
22 new resident who is licensed in another state."

23 Sec. 6. G.S. 20-37.9 reads as rewritten:

24 "\$ 20-37.9. Notification Notice of change of address, address or
25 name.

26 ~~Whenever the holder of a special identification card issued~~
27 ~~under G.S. 20-37.7 has a change in the address as shown on the~~
28 ~~special identification card, he or she shall apply for reissuance~~
29 ~~of a special identification card within 60 days after the address~~
30 ~~has been changed. The fee for reissuance of a special~~
31 ~~identification card is the same as the fee set in G.S. 20-37.7~~
32 ~~for issuing a special identification card. If a change of~~
33 ~~address is the result of governmental action and there is no~~
34 ~~actual change of geographical location, the holder of the card is~~
35 ~~not required to change the address on the card until the Division~~
36 ~~issues the holder another card.~~

37 (a) Address. -- A person whose address changes from the address
38 stated on a special identification card must notify the Division
39 of the change within 60 days after the change occurs. If the
40 person's address changed because the person moved, the person
41 must obtain a new special identification card within that time
42 limit stating the new address. A person who does not move but
43 whose address changes due to governmental action may not be
44 charged with violating this subsection.

1 (b) Name. -- A person whose name changes from the name stated
2 on a special identification card must notify the Division of the
3 change within 60 days after the change occurs and obtain a new
4 special identification card stating the new name,

5 (c) Fee. -- G.S. 20-37.7 sets the fee for a special
6 identification card."

7 Sec. 7. G.S. 20-67 reads as rewritten:

8 "\$ 20-67. Notice of change of address or name.

9 (a) Address. -- ~~Whenever any person, after making application~~
10 ~~for or obtaining the registration of a vehicle or a certificate~~
11 ~~of title, shall move from the A person whose address named in the~~
12 ~~application or shown upon a registration card or certificate of~~
13 ~~title, such person shall within 30 days thereafter notify the~~
14 ~~Division in writing of his old and new addresses. changes from~~
15 ~~the address stated on a certificate of title or registration card~~
16 ~~must notify the Division of the change within 60 days after the~~
17 ~~change occurs. The person may obtain a duplicate certificate of~~
18 ~~title or registration card stating the new address but is not~~
19 ~~required to do so. A person who does not move but whose address~~
20 ~~changes due to governmental action may not be charged with~~
21 ~~violating this subsection.~~

22 (b) Name. -- ~~Whenever the name of any person who has made~~
23 ~~application for or obtained the registration of a vehicle or a~~
24 ~~certificate of title is thereafter changed by marriage or~~
25 ~~otherwise, such person shall thereafter forward or cause to be~~
26 ~~forwarded to the Division the certificate of title and to make~~
27 ~~application for correction of the certificate on forms provided~~
28 ~~by the Division. A person whose name changes from the name stated~~
29 ~~on a certificate of title or registration card must notify the~~
30 ~~Division of the change within 60 days after the change occurs.~~
31 ~~The person may obtain a duplicate certificate of title or~~
32 ~~registration card but is not required to do so.~~

33 (c) Fee. -- G.S. 20-85 sets the fee for a duplicate certificate
34 of title or registration card."

35 Sec. 8. This act becomes effective December 1, 1996.

Explanation of Legislative Proposal 8
60 Days To Change DMV Information

This proposal establishes 60 days as the standard time period in which a new resident of this State must obtain a drivers license, a special identification card, or a vehicle registration and in which a current resident of this State must notify the Division of a change of address or name. It also makes standard a requirement that a person whose name changes notify the Division of the change within 60 days. Further, it establishes a standard requirement that a person who has not moved but whose address has changed must notify the Division of the change. Finally, it makes clarifying changes to the affected statutes.

Under current law, some of these time periods are 30 days, some are 60 days, and some are unlimited and no notice is required in some instances for a change of name. The current law is as follows:

<u>Circumstance</u>	<u>Days</u>	<u>Statute</u>
	<u>Allowed</u>	
New resident to obtain license	30	20-4.6
New resident to obtain license	30	20-7(a), 20-37.12(e)
Renewal of temporary license upon return to State	30	20-7(f)
Notice of change of address for license	60	20-7.1, 20-37.15(b)
Notice of change of name for license	60, but required only for CDL	20-37.15(b)
Notice of change of address for special id card	60	20-37.9
Notice of change of name for special id card	Not required	
Notice of change of address for vehicle registration	30	20-67(a)
Noice of change of name for vehicle registration	Unlimited	20-67(b)

Section 1 repeals G.S. 20-4.6 because it is unnecessary and confusing. The section addresses privileges of vehicles registered in another state and requires

new residents to register their vehicles with the Division within 30 days after becoming a resident. The part that addresses privileges of vehicles registered in another state conflicts with G.S. 20-4.8, which is the controlling law, and the part that sets a time limit for a new resident to register a vehicle both conflicts with the proposed 60-day limit and unnecessarily repeats G.S. 20-67.

Section 2 changes the time in which a new resident must obtain a drivers license from 30 days to 60 days.

Section 3 extends from 30 days to 60 days the time in which a person who has a temporary drivers license must obtain a regular license. The Division can issue a temporary drivers license by mail as the renewal of a license previously issued by the Division when the license holder is out of the State. A temporary license now expires 30 days after the license holder returns to the State.

Section 4 rewrites the statute requiring a duplicate license for a change of address to add a requirement to notify the Division of a change of name. Notification of a change of name is now required for a commercial drivers license but not a regular license. Lack of correct names is part of the reason the Division cannot currently match many license revocation orders to licensed drivers. G.S. 20-37.15(b), in the commercial drivers license provisions, states that when a person's name changes, the person must apply for a duplicate license as provided in G.S. 20-7.1. Currently, however, G.S. 20-7.1 does not address obtaining a duplicate when a name changes. The rewritten section adds a cross-reference to the fee for a duplicate license but does not impose a new fee. Failure to obtain a duplicate license as required is a Class 2 misdemeanor under G.S. 20-35.

Section 5 makes a conforming change to the CDL statutes. The relevant statute now unnecessarily repeats the time period in which a new resident must obtain a drivers license. This section deletes the current 30-day limit and substitutes a cross reference to the new 60-day limit.

Section 6 conforms the special id statute to the drivers license statute with respect to notice of a change of address or name. The special id statute currently does not require notification of a change of name. Also, the statute is not clear whether a person whose address has changed but who has not moved must notify the Division. As interpreted, the statute means that a person in this circumstance must notify the Division but is not required to get a new special id card.

Section 7 rewrites the statute requiring a person to notify DMV of a change of name or address for purposes of vehicle registration. The statute clarifies

that a person who has not moved but whose address has changed must notify the Division of the change. This is the practice although the statute addresses only a move. In making this change, the statute is conformed to the drivers license change of address provisions. The rewritten section also adds a cross reference to the fee for a duplicate certificate of title or duplicate fee. It does not change the fee, however. Failure to notify the Division of a change or address or name as required is a Class 2 misdemeanor under G.S. 20-176.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

LEGISLATIVE PROPOSAL 9

95-LJ-32(1.2)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Digitized Imagery License Changes. (Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO USE DIFFERENT
COLOR BORDERS TO DISTINGUISH THE AGE OF LICENSE HOLDERS,
THEREBY MAKING IT EASIER TO ISSUE DUPLICATE LICENSES BY MAIL
WHEN THE PHOTOGRAPH ON THE ORIGINAL LICENSE IS A DIGITIZED
IMAGE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-7(n) reads as rewritten:

"(n) Format. -- A drivers license issued by the Division must
be tamperproof and must contain all of the following information:

- (1) An identification of this State as the issuer of the license.
- (2) The license holder's full name.
- (3) The license holder's residence address.
- (4) A color photograph of the license holder, taken by the Division.
- (5) A physical description of the license holder, including sex, height, eye color, and hair color.
- (6) The license holder's date of birth.
- (7) The license holder's social security number or another identifying number assigned by the Division.

(8) Each class of motor vehicle the license holder is authorized to drive and any endorsements or restrictions that apply.

(9) The license holder's signature.

(10) The date the license was issued and the date the license expires.

The Commissioner may waive the requirement of a color photograph on a license if the license holder proves to the satisfaction of the Commissioner that taking the photograph would violate the license holder's religious convictions. In taking photographs of license holders, the Division must distinguish between license holders who are less than 21 years old and license holders who are at least 21 years old by using different color backgrounds or borders for each group. The Division shall determine the different colors to be used.

At the request of an applicant for a drivers license, a license issued to the applicant must contain the applicant's race."

Sec. 2. G.S. 20-14 reads as rewritten:

"§ 20-14. Duplicate licenses.

A person may obtain a duplicate of a license issued by the Division by paying a fee of ten dollars (\$10.00) and giving the Division satisfactory proof that any of the following has occurred:

(1) The person's license has been lost or destroyed.

(2) It is necessary to change the name or address on the license.

(3) Because of age, the person is entitled to a license with a different color photographic ~~background~~ background or a different color border.

(4) The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

Sec. 3. This act is effective upon ratification.

Explanation of Legislative Proposal 9
Digitized Imagery License Changes

The Division of Motor Vehicles plans to use digitized imagery for the photograph of a person on a drivers license beginning sometime after October of 1996. When this occurs, the Division's records will include that image of the person. Therefore, a person who needs a duplicate license because of a change of address or name change would not have to visit a Division office. The Division could issue the duplicate license, complete with the digitized image, by mail.

A problem in implementing the issuance of a digitized duplicate license by mail is the requirement that a drivers license of a person who is at least 21 years old have a different color background than a drivers license issued to a person who is less than 21 years old. A digitized image can be edited to change the colors in the image, but editing requires more time and costs more than not editing the image. This bill resolves the potential editing problem by allowing the Division to use different color borders, as opposed to different color backgrounds, to distinguish the age group of the license holder.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1995

S or H

D

LEGISLATIVE PROPOSAL 10
95-LJ-16(1.4)
(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DMV Trucking/Technical Changes. (Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CONFORM THE MOTOR VEHICLE LAWS TO THE FEDERAL
DEREGULATION OF TRUCKING AND TO MAKE TECHNICAL CHANGES TO THE
MOTOR VEHICLE LAWS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-1 reads as rewritten:

"§ 20-1. Division of Motor Vehicles of the Department of
Transportation; powers and duties, established.

The Department of Motor Vehicles is hereby redesignated the
Division of Motor Vehicles of the Department of Transportation.
The Division of Motor Vehicles shall have the same powers and
duties as were held by the Department of Motor Vehicles except as
otherwise provided in this Article. All powers, duties and
functions relating to the collection of motor fuel taxes and the
collection of the gasoline and oil inspection taxes shall
continue to be vested in and exercised by the Secretary of
Revenue, and wherever it is now provided by law that reports
shall be filed with the Secretary of Revenue, or Department of
Revenue, as a basis for collecting the motor fuel or gasoline and
oil inspection taxes, or enforcing any of the laws regarding the
motor fuel or gasoline and oil inspection taxes, such reports
shall continue to be made to the Department of Revenue and the
Commissioner of Motor Vehicles shall make available to the

~~1 Secretary of Revenue all information from files of the Division~~
~~2 of Motor Vehicles which the Secretary of Revenue may request to~~
~~3 enable him to better enforce the law with respect to the~~
~~4 collection of such taxes. Nothing in this Article shall deprive~~
~~5 the Utilities Commission of any of the duties or powers now~~
~~6 vested in it with regard to the regulation of motor vehicle~~
~~7 carriers. Transportation is established. This Chapter sets out~~
~~8 the powers and duties of the Division."~~

9 Sec. 2. G.S. 20-4.01(27)c. reads as rewritten:

10 "c. Common carriers of passengers. -- Vehicles
11 operated under a franchise certificate of
12 authority issued by the Utilities Commission
13 for operation on the highways of this State
14 between fixed termini or over a regular route
15 for the transportation of persons ~~or property~~
16 for compensation."

17 Sec. 3. G.S. 20-4.01 is amended by adding the following
18 subdivisions in the appropriate alphabetical order to read:

- 19 "(11a) For-hire Motor Carrier. -- A person who
20 transports passengers or property by motor
21 vehicle for compensation.
22 (21b) Motor Carrier. -- A for-hire motor carrier or
23 a private motor carrier.
24 (29a) Private Motor Carrier. -- A person who
25 transports passengers or property by motor
26 vehicle in interstate commerce and is not a
27 for-hire motor carrier."

28 Sec. 4. G.S. 20-4.01(31) reads as rewritten:

29 "(31) Property-Hauling Vehicles. --

- 30 a. ~~Exempt for-hire vehicles. -- Vehicles used for~~
31 ~~the transportation of property for hire but~~
32 ~~not licensed as common carriers or contract~~
33 ~~carriers of property under franchise~~
34 ~~certificates or permits issued by the~~
35 ~~Utilities Commission or by the Interstate~~
36 ~~Commerce Commission; provided, that the term~~
37 ~~"for hire" shall include every arrangement by~~
38 ~~which the owner of a vehicle uses, or permits~~
39 ~~such vehicle to be used, for the~~
40 ~~transportation of the property of another for~~
41 ~~compensation, subject to the following~~
42 ~~exceptions:~~

- 43 1. ~~The transportation of farm crops or~~
44 ~~products, including logs, bark, pulp, and~~

- 1 tannic acid wood delivered from farms and
2 forest to the first or primary market,
3 and the transportation of wood chips from
4 the place where wood has been converted
5 into chips to their first or primary
6 market.
- 7 2- The transportation of perishable foods
8 which are still owned by the grower while
9 being delivered to the first or primary
10 market by an operator who has not more
11 than one truck, truck-tractor, or trailer
12 in a for-hire operation.
- 13 3- The transportation of merchandise hauled
14 for neighborhood farmers incidentally and
15 not as a regular business in going to and
16 from farms and primary markets.
- 17 4- The transportation of T.V.A. or A.A.A.
18 phosphate and/or agricultural limestone
19 in bulk which is furnished as a grant of
20 aid under the United States Agricultural
21 Adjustment Administration.
- 22 5- The transportation of fuel for the
23 exclusive use of the public schools of
24 the State.
- 25 6- Vehicles whose sole operation in carrying
26 the property of others is limited to the
27 transportation of the United States mail
28 pursuant to a contract, or the extension
29 or renewal of such contract.
- 30 7- Vehicles leased for a term of one year or
31 more to the same person when used
32 exclusively by such person in
33 transporting his own property.
- 34 b- Common carrier of property vehicles. --
35 Vehicles used for the transportation of
36 property certified by the Utilities Commission
37 or the Interstate Commerce Commission as
38 common carriers.
- 39 c- Private hauler vehicles. -- Vehicles used for
40 the transportation of property not falling
41 within one of the above-defined
42 classifications; provided, self-propelled
43 vehicles equipped with permanent living and
44 sleeping facilities used for camping

~~activities shall be classified as private passenger vehicles.~~

d. Semitrailers. -- Vehicles without motive power designed for carrying property or persons and for being drawn by a motor vehicle, and so constructed that part of their weight or their load rests upon or is carried by the pulling vehicle.

e. Trailers. -- Vehicles without motive power designed for carrying property or persons wholly on their own structure and to be drawn by a motor vehicle, including "pole trailers" or a pair of wheels used primarily to balance a load rather than for purposes of transportation.

~~f. Contract carrier of property vehicles. -- Vehicles used for the transportation of property under a franchise permit of a regulated contract carrier issued by the Utilities Commission or the Interstate Commerce Commission."~~

Sec. 5. G.S. 20-37.16(e) reads as rewritten:

"(e) The requirements for a commercial drivers license do not apply to vehicles used for personal use such as recreational vehicles. A commercial drivers license is also waived for the following classes of vehicles as permitted by regulation of the United States Department of Transportation:

(1) Vehicles owned or operated by the Department of Defense, including the National Guard, while they are driven by active duty military personnel, or members of the National Guard when on active duty, in the pursuit of military ~~purposes,~~ purposes.

(2) Any vehicle when used as firefighting or emergency equipment for the purpose of preserving life or property or to execute emergency governmental ~~functions; and functions.~~

(3) ~~Farm vehicles that meet~~ A farm vehicle that meets all of the following criteria:

a. ~~Controlled~~ Is controlled and operated by the farmer or the farmer's employee and used exclusively for farm ~~use,~~ use.

b. ~~Used~~ Is used to transport either agricultural products, farm machinery, or farm supplies, both to or from a ~~farm,~~ farm.

c. ~~Not Is not~~ used in the operations of a common or ~~contract~~ for-hire motor carrier; and carrier.

d. ~~Used Is used~~ within 150 miles of the farmer's farm.

A farm vehicle includes a forestry vehicle that meets the listed criteria when applied to the forestry operation."

Sec. 6. G.S. 20-64.1 is repealed.

Sec. 7. G.S. 20-87(1) reads as rewritten:

"(1) ~~Common Carrier, Contract Carriers and Exempt For-Hire Passenger Carrier Vehicles. -- For-hire passenger vehicles shall be taxed at the rate of~~ The fee for a passenger vehicle that is operated for compensation and has a capacity of fifteen passengers or less is seventy-eight dollars (\$78.00) per year for each vehicle of fifteen-passenger capacity or less and vehicles of over fifteen-passenger capacity shall be classified as buses and shall be taxed at a rate of (\$78.00). ~~The fee for a passenger vehicle that is operated for compensation and has a capacity of more than fifteen passengers is one dollar and forty cents (\$1.40) per hundred pounds of empty weight per year for each vehicle; provided, however, no license shall be issued for the operation of any taxicab until the governing body of the city or town in which such taxicab is principally operated, if the principal operation is in a city or town, has issued a certificate showing:~~

a. ~~That the operator of such taxicab has provided liability insurance or other form of indemnity for injury to person or damage to property resulting from the operation of such taxicab, in such amount as required by the city or town, and~~

b. ~~That the convenience and necessity of the public requires the operation of such taxicab. All persons operating taxicabs on January 1, 1945, shall be entitled to a certificate of necessity and convenience for the number of taxicabs operated by them on such date, unless since said date the license of such person or persons to operate a taxicab or taxicabs has~~

~~been revoked or their right to operate has been withdrawn or revoked; provided that all persons operating taxicabs in Edgecombe, Lee, Nash and Union Counties on January 1, 1945, shall be entitled to certificates of necessity and convenience only with the approval of the governing authority of the town or city involved.~~

~~A taxicab shall be defined as any motor vehicle, seating nine or fewer passengers, operated upon any street or highway on call or demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in Article 17 of this Chapter. Such taxicab shall not be construed to be a common carrier nor its operator a public service corporation of the vehicle."~~

Sec. 8. G.S. 20-88(b) reads as rewritten:

"(b) The following fees are imposed on the annual registration of self-propelled property-hauling vehicles; the fees are based on the type of vehicle and its weight:

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

	<u>Farmer Rate</u>
Not over 4,000 pounds	\$0.23
4,001 to 9,000 pounds inclusive	.29
9,001 to 13,000 pounds inclusive	.37
13,001 to 17,000 pounds inclusive	.51
Over 17,000 pounds	.58

SCHEDULE OF WEIGHTS AND RATES

Rates Per Hundred Pound Gross Weight

Private Hauler,
Contract Carriers, Flat
Rate Common Carriers and
Exempt for Hire Carriers
<u>General Rate</u>
\$0.46

1	4,001 to 9,000 pounds inclusive	.63
2	9,001 to 13,000 pounds inclusive	.78
3	13,001 to 17,000 pounds inclusive	1.06
4	Over 17,000 pounds	1.20

5 (1) The minimum fee for a vehicle licensed under this
6 subsection is seventeen dollars and fifty cents
7 (\$17.50) at the farmer rate and twenty-one dollars
8 and fifty cents (\$21.50) at the ~~private hauler,~~
9 ~~contract carrier, and common carrier rates.~~ general
10 rate.

11 (2) The term "farmer" as used in this subsection means
12 any person engaged in the raising and growing of
13 farm products on a farm in North Carolina not less
14 than 10 acres in area, and who does not engage in
15 the business of buying products for resale.

16 (3) License plates issued at the farmer rate shall be
17 placed upon trucks and truck-tractors that are
18 operated exclusively in the carrying or
19 transportation of applicant's farm products, raised
20 or produced on his farm, and farm supplies and not
21 operated in hauling for hire.

22 (4) "Farm products" means any food crop, livestock,
23 poultry, dairy products, flower bulbs, or other
24 nursery products and other agricultural products
25 designed to be used for food purposes, including in
26 the term "farm products" also cotton, tobacco,
27 logs, bark, pulpwood, tannic acid wood and other
28 forest products grown, produced, or processed by
29 the farmer.

30 (5) The Division shall issue necessary rules and
31 regulations providing for the recall, transfer,
32 exchange or cancellation of "farmer" plates, when
33 vehicle bearing such plates shall be sold or
34 transferred.

35 (5a) Notwithstanding any other provision of this
36 Chapter, license plates issued pursuant to this
37 subsection at the farmer rate may be purchased for
38 any three-month period at one fourth of the annual
39 fee.

40 (6) There shall be paid to the Division annually as of
41 the first of January, the following fees for
42 "wreckers" as defined under G.S. 20-4.01(50): a
43 wrecker fully equipped weighing 7,000 pounds or
44 less, seventy-five dollars (\$75.00); wreckers

weighing in excess of 7,000 pounds shall pay one hundred forty-eight dollars (\$148.00). Fees to be prorated quarterly. Provided, further, that nothing herein shall prohibit a licensed dealer from using a dealer's license plate to tow a vehicle for a customer."

Sec. 9. G.S. 20-88(f) is repealed.

Sec. 10. G.S. 20-91 reads as rewritten:

"§ 20-91. Records, applications, reports or returns required of carriers of passengers and property. Audit of vehicle registrations under the International Registration Plan.

(a) Individual motor vehicle mileage records, motor vehicle equipment records, motor vehicle inventory records and motor vehicle revenue records shall be prepared and maintained in accordance with rules and regulations issued by the Commissioner.

Applications for licensing or registering motor vehicles in North Carolina shall be applied for on forms approved by the Commissioner and filed in accordance with rules and regulations issued by the Commissioner. Applications for licensing or registering motor vehicles in North Carolina are accepted subject to audit.

(b) It shall be the duty of the Commissioner, by competent auditors, to have the books, records, tax returns, applications, and any and all other pertinent records or documents of any registrant licensing or registering motor vehicles, or that are required to license or register motor vehicles, under the provisions of this Article, audited for the purpose of determining whether such registrant is maintaining acceptable records, filing correct applications and paying correct registration fees or taxes as required.

Every registrant subject to licensing or registration and audit under the provisions of this Article shall retain all pertinent licensing and registration documents, books, records, tax returns, applications and all supporting records and documents on which an application for licensing or registration is based for a period of three full registration years. These records shall at all times during the business hours of the day be subject to audit. The Division may audit a person who registers or is required to register a vehicle under the International Registration Plan to determine if the person has paid the registration fees due under this Article. A person who registers a vehicle under the International Registration Plan must keep any records used to determine the information provided to the Division when registering the vehicle. The records must be kept

1 for three years after the date of the registration to which the
2 records apply. The Division may examine these records during
3 business hours. If it is determined these the records are not
4 located in North Carolina and it becomes necessary for the
5 auditors to travel to the place where such records are normally
6 kept, an auditor must travel to the location of the records, the
7 registrant shall reimburse North Carolina for per diem and travel
8 expense incurred in the performance of such the audit. Where If
9 more than one registrant is audited on the same out-of-state
10 trip, the per diem and travel expense may be prorated.

11 The Commissioner may enter into reciprocal audit agreements
12 with other agencies of this State or agencies of another ~~state or~~
13 ~~states,~~ jurisdiction for the purpose of conducting joint audits
14 of any registrant subject to audit under this ~~Article,~~ section.

15 (c) If an audit is conducted and it becomes necessary to assess
16 the registrant for deficiencies in registration fees or taxes due
17 based on the audit, the assessment will be determined based on
18 the schedule of rates prescribed for that registration year,
19 adding thereto and as a part thereof an amount equal to five
20 percent (5%) of the tax to be collected. If, during an audit, it
21 is determined that:

- 22 (1) A registrant failed or refused to make acceptable
23 records available for audit as provided by law; or
- 24 (2) A registrant misrepresented, falsified or concealed
25 ~~his~~ records, then all plates and cab cards shall be
26 deemed to have been issued erroneously and are
27 subject to cancellation. The Commissioner may
28 assess the registrant for an additional percentage
29 up to one hundred percent (100%) North Carolina
30 registration fees at the rate prescribed for that
31 registration year, adding thereto and as a part
32 thereof an amount equal to five percent (5%) of the
33 tax to be collected. The Commissioner may cancel
34 all registration and reciprocal privileges.

35 As a result of an audit, no assessment shall be issued and no
36 claim for refund shall be allowed which is in an amount of less
37 than ten dollars (\$10.00).

38 The notice of any assessments will be sent to the registrant by
39 registered or certified mail at the address of the registrant as
40 it appears in the records of the Division of Motor Vehicles in
41 Raleigh. The notice, when sent in accordance with the
42 requirements indicated above, will be sufficient regardless of
43 whether or not it was ever received.

1 The failure of any registrant to pay any additional
2 registration fees or tax within 30 days after the billing date,
3 shall constitute cause for revocation of registration license
4 plates, cab cards and reciprocal privileges.

5 ~~{d} Except in accordance with proper judicial order, or as~~
6 ~~otherwise provided by law, it shall be unlawful for the~~
7 ~~Commissioner of Motor Vehicles, any deputy, assistant, agent,~~
8 ~~clerk, other officer, employee, or former officer or employee, to~~
9 ~~divulge or make known in any manner the amount of tax paid by any~~
10 ~~carrier of passengers or carrier of property as set forth or~~
11 ~~disclosed in any application, report or return required in~~
12 ~~remitting said tax, or as otherwise disclosed. Nothing in this~~
13 ~~section shall be construed to prohibit the publication of~~
14 ~~statistics, so classified as to prevent the identification of~~
15 ~~particular applications, reports or returns, and the items~~
16 ~~thereof; the inspection of such applications, reports or returns~~
17 ~~by the Governor, Attorney General, Utilities Commissioner, or~~
18 ~~their or its duly authorized representatives; or the inspection~~
19 ~~by a legal representative of the State of the application, report~~
20 ~~or return of any carrier of passengers or carrier of property~~
21 ~~which shall bring an action to set aside or review the tax based~~
22 ~~thereon, or against which action or proceeding has been~~
23 ~~instituted to recover any tax or penalty imposed by this Article.~~
24 ~~Any person, officer, agent, clerk, employee, or former officer or~~
25 ~~employee violating the provisions of this section shall be guilty~~
26 ~~of a misdemeanor. Nothing in this subsection or in any other law~~
27 ~~shall prevent the exchange of information between the Division of~~
28 ~~Motor Vehicles and the Department of Revenue when such~~
29 ~~information is needed by either or both of said departments for~~
30 ~~the purposes of properly enforcing the laws with the~~
31 ~~administration of which either or both of said departments is~~
32 ~~charged."~~

33 Sec. 11. G.S. 20-92 is repealed.

34 Sec. 12. G.S. 20-99(a) reads as rewritten:

35 "(a) If any tax imposed by this Chapter, or any other tax
36 levied by the State and payable to the Commissioner of Motor
37 Vehicles, or any portion of such tax, be not paid within 30 days
38 after the same becomes due and payable, and after the same has
39 been assessed, the Commissioner of Motor Vehicles shall issue an
40 order under his hand and official seal, directed to the sheriff
41 of any county of the State, commanding him to levy upon and sell
42 the real and personal property of the taxpayer found within his
43 county for the payment of the amount thereof, with the added
44 penalties, additional taxes, interest, and cost of executing the

1 same, and to return to the Commissioner of Motor Vehicles the
2 money collected by virtue thereof within a time to be therein
3 specified, not less than 60 days from the date of the order. The
4 said sheriff shall, thereupon, proceed upon the same in all
5 respects with like effect and in the same manner prescribed by
6 law in respect to executions issued against property upon
7 judgments of a court of record, and shall be entitled to the same
8 fees for his services in executing the order, to be collected in
9 the same manner. ~~Upon the issuance of said order to the sheriff,~~
10 ~~in the event the delinquent taxpayer shall be the operator of any~~
11 ~~common carrier of passengers or common carrier of property~~
12 ~~vehicle, the franchise certificate issued to such operator shall~~
13 ~~become null and void and shall be canceled by the Utilities~~
14 ~~Commissioner, and it shall be unlawful for any such common~~
15 ~~carrier of passengers or the operator of any common carrier of~~
16 ~~property vehicle to continue the operation under said franchise."~~

17 Sec. 13. G.S. 20-101 reads as rewritten:

18 "\$ 20-101. For-hire Certain business vehicles to be marked.

19 ~~All motor vehicles licensed as common carriers or contract~~
20 ~~carriers of passengers or property, exempt for-hire motor~~
21 ~~carriers, and for-hire passenger-carrying motor carriers of~~
22 ~~greater than fifteen- passenger capacity shall have printed on~~
23 ~~each side of the vehicle in letters not less than three inches in~~
24 ~~height the name and home address of the owner, the certificate~~
25 ~~number, permit number, or exemption number under which said~~
26 ~~vehicle is operated, and such other identification as may be~~
27 ~~required and approved by the Utilities Commission A motor vehicle~~
28 ~~that is subject to 49 U.S.C. Part 390, the federal motor carrier~~
29 ~~safety regulations, must be marked as required by that Part. A~~
30 ~~motor vehicle that is not subject to those regulations, has a~~
31 ~~gross vehicle weight rating of more than 10,000 pounds, and is~~
32 ~~used in intrastate commerce must have the name of the owner~~
33 ~~printed on the side of the vehicle in letters not less than three~~
34 ~~inches in height."~~

35 Sec. 14. G.S. 20-113 is repealed.

36 Sec. 15. G.S. 20-116(e) reads as rewritten:

37 "(e) Except as provided by G.S. 20-115.1, no combination of
38 vehicles coupled together shall consist of more than two units
39 and no such combination of vehicles shall exceed a total length
40 of 60 feet inclusive of front and rear bumpers, subject to the
41 following exceptions: Said length limitation shall not apply to
42 vehicles operated in the daytime when transporting poles, pipe,
43 machinery or other objects of a structural nature which cannot
44 readily be dismembered, nor to such vehicles transporting such

1 objects operated at nighttime by a public utility when required
2 for emergency repair of public service facilities or properties,
3 but in respect to such night transportation every such vehicle
4 and the load thereon shall be equipped with a sufficient number
5 of clearance lamps on both sides and marker lamps upon the
6 extreme ends of said projecting load to clearly mark the
7 dimensions of such load: Provided that vehicles designed and used
8 exclusively for the transportation of motor vehicles shall be
9 permitted an overhang tolerance front or rear not to exceed five
10 feet. Provided, that wreckers in an emergency may tow a
11 combination tractor and trailer to the nearest feasible point for
12 repair and/or storage: Provided, however, that a combination of a
13 house trailer used as a mobile home, together with its towing
14 vehicle, shall not exceed a total length of 55 feet exclusive of
15 front and rear bumpers. Provided further, that the said
16 limitation that no combination of vehicles coupled together shall
17 consist of more than two units shall not apply to trailers not
18 exceeding three in number drawn by a motor vehicle used by
19 municipalities for the removal of domestic and commercial refuse
20 and street rubbish, but such combination of vehicles shall not
21 exceed a total length of 50 feet inclusive of front and rear
22 bumpers. Provided further, that the said limitation that no
23 combination of vehicles coupled together shall consist of more
24 than two units shall not apply to a combination of vehicles
25 coupled together by a saddle mount device used to transport motor
26 vehicles in a driveway service when no more than three saddle
27 mounts are used and provided further, that equipment used in said
28 combination is approved by the safety regulations of the
29 Interstate Commerce Commission Federal Highway Administration and
30 the safety regulations of the North Carolina Division of Motor
31 Vehicles and the Department of Transportation. rules of the
32 Division."

33 Sec. 16. G.S. 20-123(a) reads as rewritten:

34 "~~(a) No motor vehicle shall be driven upon any highway drawing~~
35 ~~or having attached thereto more than one trailer or semitrailer;~~
36 ~~Provided that this provision shall not apply to trailers not~~
37 ~~exceeding three in number drawn by a motor vehicle used by~~
38 ~~municipalities for the removal of domestic and commercial refuse~~
39 ~~and street rubbish, but such combination of vehicles shall not~~
40 ~~exceed a total length of 50 feet inclusive of front and rear~~
41 ~~bumpers: Provided that this provision shall not apply to a~~
42 ~~combination of vehicles coupled together by a saddle mount device~~
43 ~~used to transport motor vehicles in a driveway service when no~~
44 ~~more than two saddle mounts are used and provided further that~~

~~1 equipment used in said combination is approved by the safety
2 regulations of the Interstate Commerce Commission and the safety
3 regulations of the North Carolina Division of Motor Vehicles and
4 the Department of Transportation. Nothing herein shall The
5 limitations in G.S. 20-116 on combination vehicles do not
6 prohibit the towing of farm trailers not exceeding three in
7 number nor exceeding a total length of 50 feet during the period
8 from one-half hour before sunrise until one-half hour after
9 sunset provided that when a red flag of at least 12 inches square
10 shall be is prominently displayed on the last vehicle. The towing
11 of farm trailers and equipment as herein permitted shall not be
12 applicable allowed by this subsection does not apply to
13 interstate or federal numbered highways."~~

Sec. 17. G.S. 20-130.1(b)(13) reads as rewritten:

"(13) ~~Any lights that may be prescribed by the
Interstate Commerce Commission; A light
required by the Federal Highway
Administration;~~"

Sec. 18. G.S. 20-215.1 reads as rewritten:

"§ 20-215.1. Definitions.

~~Unless the context otherwise requires, the following terms and
phrases shall have, for the purpose of this Article, the
following meaning: The following definitions apply in this
Article:~~

(1) ~~'Migratory Migratory farm worker' means any worker.
-- An individual being transported by motor carrier
to or from employment who is employed in
agriculture.~~

(2) ~~'Motor Motor carrier of migratory farm workers'
means any person, firm or corporation workers. -- A
person who or which for compensation transports at
any one time in North Carolina five or more
migratory farm workers to or from their employment
by any motor vehicle, other than a passenger
automobile or station wagon, except a wagon. The
term does not include any of the following:~~

a. ~~A migratory farm worker who is transporting
himself or his or her immediate family, but
does not include any "common carrier"
certified family.~~

b. ~~A carrier of passengers regulated by the North
Carolina Utilities Commission or the
Interstate Commerce Commission; provided, the
provisions of this Article shall not apply to~~

the United States Department of
Transportation.

c. The transportation of migratory farm workers on a vehicle owned by a farmer when such the migratory farm workers are employed or to be employed by the farmer to work on his own a farm or farm owned or controlled by him, the farmer.

(3) Repealed by Session Laws 1973, c. 1330, s. 39."

Sec. 19. G.S. 20-279.32 reads as rewritten:

"§ 20-279.32. Exceptions.

This Article, ~~except its provisions as to the filing of proof of financial responsibility by a common carrier and its drivers, does not apply to any vehicle operated under a permit or certificate of convenience or necessity issued by the North Carolina Utilities Commission, or by the Interstate Commerce Commission, if public liability and property damage insurance for the protection of the public is required to be carried upon it.~~ Article does not apply to a motor vehicle registered under G.S. 20-382 or G.S. 20-382.1 by a for-hire motor carrier. This Article does not apply to any motor vehicle owned by the State of North Carolina, nor does it apply to the operator of a vehicle owned by the State of North Carolina who becomes involved in an accident while operating the state-owned vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the State. This Article does not apply to any motor vehicle owned by a county or municipality of the State of North Carolina, nor does it apply to the operator of a vehicle owned by a county or municipality of the State of North Carolina who becomes involved in an accident while operating such vehicle in the course of the operator's employment as an employee or officer of the county or municipality. This Article does not apply to the operator of a vehicle owned by a political subdivision, other than a county or municipality, of the State of North Carolina who becomes involved in an accident while operating such vehicle if the Commissioner determines that the vehicle at the time of the accident was probably being operated in the course of the operator's employment as an employee or officer of the subdivision providing that the Commissioner finds that the political subdivision has waived any immunity it has with respect to such accidents and has in force an insurance policy or other method of satisfying claims which may arise out of the accident. This Article does not apply

1 to any motor vehicle owned by the federal government, nor does it
2 apply to the operator of a motor vehicle owned by the federal
3 government who becomes involved in an accident while operating
4 the government-owned vehicle if the Commissioner determines that
5 the vehicle at the time of the accident was probably being
6 operated in the course of the operator's employment as an
7 employee or officer of the federal government."

8 Sec. 20. G.S. 20-317 reads as rewritten:

9 "§ 20-317. Insurance required by any other law; certain operators
10 not affected.

11 This Article shall not be held to apply to or affect policies
12 of automobile insurance against liability which may now or
13 hereafter be required by any other law of this State, and such
14 policies, if they contain an agreement or are endorsed to conform
15 to the requirements of this Article, may be certified as proof of
16 financial responsibility under this Article; provided, however,
17 ~~that nothing contained in this Article shall affect operators of~~
18 ~~motor vehicles that are now or hereafter required to furnish~~
19 ~~evidence of insurance or financial responsibility to the North~~
20 ~~Carolina Utilities Commission or the Interstate Commerce~~
21 ~~Commission or both, but to the extent that any insurance policy,~~
22 ~~bond or other agreement filed with or certified to the North~~
23 ~~Carolina Utilities Commission or Interstate Commerce Commission~~
24 ~~as evidence of financial responsibility affords less protection~~
25 ~~to the public than the financial responsibility required to be~~
26 ~~certified to the Division of Motor Vehicles under this Article~~
27 ~~as a condition precedent to registration of motor vehicles, the~~
28 ~~amounts, provisions and terms of such policy, bond or other~~
29 ~~agreement so certified shall be deemed to be modified to conform~~
30 ~~to the financial responsibility required to be proved under this~~
31 ~~Article as a condition precedent to registration of motor~~
32 ~~vehicles in this State. It is the intention of this section to~~
33 ~~require owners of self-propelled motor vehicles registered in~~
34 ~~this State and operated under permits from the North Carolina~~
35 ~~Utilities Commission or the Interstate Commerce Commission to~~
36 ~~show and maintain proof of financial responsibility which is at~~
37 ~~least equal to the proof of financial responsibility required of~~
38 ~~other owners of self-propelled motor vehicles registered in this~~
39 ~~State. Article. This Article applies to vehicles of motor~~
40 carriers required to register with the Division under G.S. 20-382
41 or G.S. 20-382. only to the extent that the amount of financial
42 responsibility required by this Article exceeds the amount
43 required by the United States Department of Transportation."

44 Sec. 21. G.S. 20-376 reads as rewritten:

1 "§ 20-376. Definitions.

2 ~~As used in this Article, The following definitions apply in~~
3 ~~this Article:~~

4 (1) ~~"Certificate" means a certificate of public~~
5 ~~convenience and necessity issued by the North~~
6 ~~Carolina Utilities Commission pursuant to the~~
7 ~~provisions of Chapter 62 to a common carrier by~~
8 ~~motor vehicle.~~

9 (2) ~~"Certificate of Exemption" means a certificate~~
10 ~~issued by the Division authorizing transportation~~
11 ~~services which are exempt from economic regulations~~
12 ~~under the Public Utilities Act.~~

13 (3) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994),~~
14 ~~c. 621, s. 5.~~

15 (4) ~~"Common carrier by motor vehicle" means any person~~
16 ~~which holds itself out to the general public to~~
17 ~~engage in the transportation by motor vehicle in~~
18 ~~intrastate commerce of persons or property or any~~
19 ~~class or classes thereof for compensation, whether~~
20 ~~over regular or irregular routes, except as~~
21 ~~exempted in G.S. 62-260.~~

22 (5) ~~"Contract carrier by motor vehicle" means any~~
23 ~~person which, under an individual contract or~~
24 ~~agreement with another person and with such~~
25 ~~additional persons as may be approved by the North~~
26 ~~Carolina Utilities Commission, engages in the~~
27 ~~transportation other than the transportation~~
28 ~~referred to in subdivision (4) of this section, by~~
29 ~~motor vehicle of persons or property in intrastate~~
30 ~~commerce for compensation, except as exempted in~~
31 ~~G.S. 62-260.~~

32 (6) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994),~~
33 ~~c. 621, s. 5.~~

34 (7) ~~"Exempt carrier" means any person providing~~
35 ~~transportation by motor vehicle for compensation~~
36 ~~which is declared to be exempt from economic~~
37 ~~regulation by the North Carolina Utilities~~
38 ~~Commission or the Interstate Commerce Commission.~~

39 (8) ~~"For-hire carrier" means any person engaged in the~~
40 ~~transportation of persons or property by motor~~
41 ~~vehicle for compensation.~~

42 (9) ~~"Foreign commerce" means commerce between any place~~
43 ~~in the United States and any place in a foreign~~

- country, or between places in the United States through any foreign country.
- (10) ~~through (12) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- (13) ~~"Interstate commerce" means commerce between any place in a state and any place in another state or between places in the same state through another state.~~
- (14) ~~"Intrastate commerce" means commerce between points and over a route or within a territory wholly within this State, which commerce is not a part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce, and includes all transportation within this State for compensation in interstate or foreign commerce which has been exempted by Congress from federal regulation.~~
- (15) ~~"Intrastate operations" means the transportation of persons or property for compensation in intrastate commerce.~~
- (16) ~~"Motor carrier" means both a for-hire carrier by motor vehicle and a private carrier by motor vehicle.~~
- (17), (18) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- (19) ~~"Permit" means a permit issued by the North Carolina Utilities Commission pursuant to the provisions of Chapter 62 to a contract carrier by motor vehicle.~~
- (20) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~
- (21) ~~"Private carrier" means any person not included in the definitions of common carrier or contract carrier, which transports in intrastate commerce in its own vehicle or vehicles property of which such person is the owner, lessee, or bailee, when such transportation is for the purpose of sale, lease, rent or bailment, or when such transportation is purely an incidental adjunct to some other established private business owned and operated by such person other than the transportation of property for compensation.~~
- (22) ~~Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 621, s. 5.~~

"(1) Federal safety regulations. -- The federal motor carrier safety regulations contained in 49 U.S.C. Subchapter B, Parts 350 through 399.

(2) Foreign commerce. -- Commerce between any of the following:

a. A place in the United States and a place in a foreign country.

b. Places in the United States through any foreign country.

(3) Interstate commerce. -- Commerce between any of the following:

a. A place in a state and a place in another state.

b. Places in the same state through another state.

(4) Intrastate commerce. -- Commerce that is between points and over a route wholly within this State and is not part of a prior or subsequent movement to or from points outside of this State in interstate or foreign commerce."

Sec. 22. G.S. 20-378 is repealed.

Sec. 23. G.S. 20-379 reads as rewritten:

"§ 20-379. ~~To investigate motor carriers under its control; visitation and inspection.~~ Division to audit motor carriers for compliance.

~~(a) The Division shall from time to time visit the places of business and investigate the books and papers of all motor carriers to ascertain if all the orders, rules and regulations of the North Carolina Utilities Commission and the Division have been complied with, and shall have full power and authority to examine all officers, agents and employees of such motor carriers, and all other persons, under oath or otherwise, and to compel the production of papers and the attendance of witnesses to obtain the information necessary for carrying into effect and otherwise enforcing the provisions of this Article and Chapter 62 of the General Statutes.~~

~~(b) Officers of the Division may during all reasonable hours enter upon any premises occupied by any motor carrier for the purpose of making the examinations and tests and exercising any power provided for in this Article and in Chapter 62 of the General Statutes, and may set up and use on such premises any apparatus and appliances necessary therefor. Such motor carrier shall have the right to be represented at the making of such examinations, tests and inspections.~~

1 The Division must periodically audit each motor carrier to
2 determine if the carrier is complying with this Article. In
3 conducting the audit, the Division may examine a person under
4 oath, compel the production of papers and the attendance of
5 witnesses, and copy a paper for use in the audit. An employee of
6 the Division may enter the premises of a motor carrier during
7 reasonable hours to enforce this Article. When on the premises
8 of a motor carrier, an employee of the Division may set up and
9 use equipment needed to make the tests required by this Article."

10 Sec. 24. G.S. 20-380 reads as rewritten:

11 "\$ 20-380. To Division may investigate accidents involving motor
12 carriers; to carriers and promote general safety program.

13 The Division may conduct a program of accident prevention and
14 public safety covering all motor carriers with special emphasis
15 on highway safety and transport safety and may investigate the
16 causes of any accident on a highway involving a motor carrier.
17 Any information obtained ~~upon such in an~~ investigation shall be
18 reduced to writing and a report thereof filed in the office of
19 the Division, which shall be subject to public inspection but
20 such report shall not be admissible in evidence in any civil or
21 criminal proceeding arising from such accident. The Division may
22 adopt rules ~~and regulations~~ for the safety of the public as
23 affected by motor carriers and the safety of motor carrier
24 employees. The Division shall cooperate with and coordinate its
25 activities for motor carriers with other ~~programs of the North~~
26 ~~Carolina Utilities Commission, the North Carolina Insurance~~
27 ~~Department, the North Carolina Industrial Commission and other~~
28 ~~agencies and organizations engaged in the promotion of highway~~
29 ~~safety and employee safety."~~

30 Sec. 25. G.S. 20-381 reads as rewritten:

31 "\$ 20-381. Additional Specific powers and duties of Division
32 applicable to motor vehicles, carriers.

33 The Division ~~is hereby vested with~~ has the following powers
34 and ~~duties; duties concerning motor carriers:~~

35 (1) To prescribe qualifications and maximum hours of
36 service of drivers and their helpers, ~~and rules~~
37 ~~regulating safety of helpers.~~

38 (1a) To set safety standards for operation and
39 equipment; and in the interest of uniformity of
40 intrastate and interstate rules and regulations
41 applicable within the State with respect to maximum
42 hours of service of vehicle drivers and their
43 helpers, and safety of operation and equipment, the
44 Division may adopt and enforce the rules and

1 ~~regulations adopted and promulgated by the United~~
2 ~~States Department of Transportation with respect~~
3 ~~thereto, insofar as it finds the same to be~~
4 ~~practical and advantageous for application in this~~
5 ~~State and not in conflict with this Article. In~~
6 ~~order to promote safety of operation of motor~~
7 ~~carriers, the Division may avail itself of the~~
8 ~~assistance of any other agency of the State having~~
9 ~~special knowledge of such matters and it may make~~
10 ~~such vehicles of motor carriers engaged in foreign,~~
11 ~~interstate, or intrastate commerce over the~~
12 ~~highways of this State and for the safe operation~~
13 ~~of these vehicles. The Division may stop and~~
14 ~~inspect a vehicle to determine if it is in~~
15 ~~compliance with these standards and may conduct any~~
16 ~~investigations and tests as may be deemed it finds~~
17 ~~necessary to promote the safety of equipment and~~
18 ~~the safe operation on the highway of vehicles upon~~
19 ~~the highways. these vehicles.~~

20 (1a) To enforce this Article, rules adopted under this
21 Article, and the federal safety regulations.

22 (2) The Division and its duly authorized inspectors and
23 agents shall have authority at any time to To enter
24 upon the premises of any a motor carrier, subject
25 to the provisions of this Article, for the purpose
26 of inspecting any carrier to inspect a motor
27 vehicle and or any equipment used by such the motor
28 carriers in the transportation of carrier in
29 transporting passengers and property, or property
30 and property.

31 (2a) To prohibit the use by any a motor carrier of any
32 motor vehicle or parts thereof or motor vehicle
33 equipment thereon adjudged by such agents and
34 inspectors to be the Division finds to be unsafe
35 for use in the transportation of passengers and or
36 property upon the public highways of this State,
37 and when such agents or inspectors shall discover
38 any motor vehicle of such motor carrier on a
39 highway. If an agent of the Division finds a motor
40 vehicle of a motor carrier in actual use upon the
41 highways in the transportation of passengers and or
42 property to be unsafe or any parts thereof or any
43 equipment thereon to be unsafe, such agents or
44 inspectors may, if they are unsafe and is of the

opinion that further use of such vehicle, parts or equipment are imminently dangerous, the agent may stop such vehicle and require the operator thereof to discontinue its use and to substitute therefor a safe vehicle, parts or equipment at the earliest possible time and place, having regard for both the convenience and the safety of the passengers and or property. When an inspector or agent stops a motor vehicle on the highway, under authority of this section, and the motor vehicle is in operative condition and its further movement is not dangerous to the passengers and or property and or to the users of the highways, it shall be the duty of the inspector or agent to guide the vehicle to the nearest point of substitution or correction of the defect. Such agents or inspectors shall also have the right to stop any motor vehicle which is being used upon the public highways for the transportation of passengers and or property by a motor carrier subject to the provisions of this Article and to eject therefrom any driver or operator who shall be operating or be in charge of such motor vehicle while under the influence of intoxicating liquors, alcoholic beverages. It shall be the duty of all inspectors and agents of the Division to make a written report, upon a form prescribed by the Division, of inspections of all motor equipment and a copy of each such written report, disclosing defects in such equipment, shall be served promptly upon the motor carrier operating the same, either in person by the inspector or agent or by mail. Such agents and inspectors shall also make and serve a similar written report in cases where a motor vehicle is operated in violation of the laws of this State or of the orders, rules and regulations of the North Carolina Utilities Commission or Division, this Chapter.

- (3) To relieve the highways of all undue burdens and safeguard traffic thereon by promulgating adopting and enforcing reasonable rules, regulations rules and orders designed and calculated to minimize the dangers attending transportation on the highways of all commodities including explosives or highway

1 flammable or combustible liquids, substances or
2 gases."

3 Sec. 26. G.S. 20-382 reads as rewritten:

4 "§ 20-382. Registration of for-hire interstate motor carriers
5 and verification that their for-hire vehicles are insured.

6 (a) Registration. -- A for-hire motor carrier may not operate
7 a for-hire motor vehicle in interstate commerce in this State
8 unless the motor carrier has complied with all of the following
9 requirements:

10 (1) Registered its operations with the Division by
11 doing one of the following:

12 a. Filing a copy of the certificate of authority
13 issued to it by the ~~Interstate Commerce~~
14 Commission United States Department of
15 Transportation allowing it to operate in this
16 State and any amendments to that authority.

17 b. Certifying to the Division that it carries
18 only items that are not regulated by the
19 ~~Interstate Commerce Commission~~ United States
20 Department of Transportation.

21 (2) Verified, in accordance with subsection (b) or (c)
22 of this section, that it has insurance for each
23 for-hire motor vehicle it operates.

24 (3) Paid the fees set in G.S. 20-385.

25 (b) Insurance Verification for ~~ICC-Regulated~~ Federally
26 Regulated Motor Carriers. -- A for-hire motor carrier that
27 operates a for-hire motor vehicle in interstate commerce in this
28 State, is regulated by the ~~Interstate Commerce Commission~~, United
29 States Department of Transportation, and designates this State as
30 its registration state must obtain a receipt from the Division
31 verifying that each for-hire motor vehicle the motor carrier
32 operates in any jurisdiction is insured. To obtain a receipt, the
33 motor carrier must apply annually to the Division during the
34 application period and state the number of for-hire motor
35 vehicles the motor carrier intends to operate in each
36 jurisdiction during the next calendar year. The certificate of
37 authority issued to the motor carrier by the ~~Interstate Commerce~~
38 Commission United States Department of Transportation is proof
39 that the motor carrier has insurance for its for-hire motor
40 vehicles.

41 The motor carrier must keep a copy of the receipt in each of
42 its for-hire motor vehicles. The motor carrier may transfer the
43 receipt from one for-hire motor vehicle to another as long as the
44 total number of for-hire motor vehicles operated in any

1 jurisdiction and in all jurisdictions does not exceed the number
2 stated on the receipt.

3 A motor carrier may operate more for-hire motor vehicles in a
4 jurisdiction than stated in its most recent annual application
5 only if the motor carrier files another application with the
6 Division and obtains a receipt stating the increased number. A
7 motor carrier that obtains a receipt for an increased number of
8 for-hire motor vehicles must put a copy of the new receipt in
9 each of its for-hire motor vehicles. The new receipt replaces
10 rather than supplements the previous receipt.

11 (c) Insurance Verification for Nonregulated Motor Carriers. --
12 A for-hire motor carrier that operates a for-hire motor vehicle
13 in interstate commerce in this State and is exempt from
14 regulation by the ~~Interstate Commerce Commission~~ United States
15 Department of Transportation must verify to the Division that
16 each for-hire motor vehicle the motor carrier operates in this
17 State is insured. To do this, the motor carrier must obtain
18 annually for each for-hire motor vehicle a cab card approved by
19 the Commissioner and a North Carolina identification stamp issued
20 by the Division. To obtain an identification stamp, the motor
21 carrier must apply annually to the Division during the
22 application period for an identification stamp for each for-hire
23 motor vehicle the motor carrier intends to operate in this State
24 during the next 12-month period beginning February 1.

25 The motor carrier must place the identification stamp on the
26 cab card and keep the cab card in the for-hire motor vehicle for
27 which it was issued. An identification stamp is issued for a
28 specific for-hire motor vehicle and is not transferable from one
29 for-hire motor vehicle to another.

30 A motor carrier may operate in this State a for-hire motor
31 vehicle for which it did not obtain an identification stamp
32 during the most recent annual application period only if it
33 obtains for that vehicle either a cab card and identification
34 stamp or an emergency permit. A motor carrier may obtain an
35 additional identification stamp after the close of the annual
36 application period by filing an application for it with the
37 Division. An identification stamp issued after the close of the
38 annual application period expires the same date as one issued
39 during the annual application period.

40 A motor carrier may obtain an emergency permit by filing an
41 application for it with the Division. An emergency permit allows
42 the motor carrier to operate a for-hire motor vehicle in this
43 State without a cab card and identification stamp between the

1 time the motor carrier has applied for an identification stamp
2 and the time the Division issues the identification stamp."

3 Sec. 27. G.S. 20-382.1 reads as rewritten:

4 "\$ 20-382.1. Registration of for-hire intrastate motor carriers
5 and verification that their vehicles are insured.

6 (a) Registration. -- A for-hire motor carrier may not operate
7 a for-hire motor vehicle in intrastate commerce in this State
8 unless the motor carrier has complied with all of the following
9 requirements:

10 (1) Registered its operations with the State ~~by doing~~
11 ~~one of the following:~~

12 a- ~~Obtaining a certificate or a permit from the~~
13 ~~North Carolina Utilities Commission, if the~~
14 ~~motor carrier hauls regulated items.~~

15 b- ~~Obtaining a certificate of exemption from the~~
16 ~~Division, if the motor carrier hauls only~~
17 ~~items that are not regulated by the North~~
18 ~~Carolina Utilities Commission. Division.~~

19 (2) Verified, in accordance with subsection (b) of this
20 section, that it has insurance for each for-hire
21 motor vehicle it operates in this State.

22 (3) Paid the fees set in G.S. 20-385.

23 (b) Insurance Verification. -- A for-hire motor carrier that
24 operates a for-hire vehicle in intrastate commerce in this State
25 must verify to the Division that each for-hire motor vehicle it
26 operates in this State is insured. To do this, the motor carrier
27 must submit an insurance verification form to the Division and
28 must file annually with the Division a list of the for-hire
29 vehicles it operates in this State."

30 Sec. 28. G.S. 20-384 reads as rewritten:

31 "\$ 20-384. ~~Carriers must comply with safety rules and~~
32 ~~regulations. Penalty for certain violations.~~

33 (a) ~~Scope. -- The Division may adopt highway safety rules for~~
34 ~~all for-hire motor carrier vehicles and all private carrier~~
35 ~~vehicles engaged in interstate commerce and intrastate commerce~~
36 ~~over the highways of North Carolina whether common carriers,~~
37 ~~contract carriers, exempt carriers, or private carriers.~~

38 (b) ~~Infraction. -- A motor carrier who fails to conduct a~~
39 ~~safety inspection of a vehicle as required by 49 C.F.R. Part 396,~~
40 ~~396 of the federal Motor Carrier Safety Regulations, safety~~
41 ~~regulations~~ or who fails to mark a vehicle that has been
42 inspected as required by that Part commits an infraction and, if
43 found responsible, is liable for a penalty of up to fifty dollars
44 (\$50.00)."

Sec. 29. G.S. 20-385 reads as rewritten:

"§ 20-385. Fee schedule.

(a) Amounts. --

- (1) Verification by a for-hire motor carrier of insurance for each for-hire motor vehicle operated in this State \$ 1.00
- (2) Application by an intrastate motor carrier for ~~a certificate of exemption~~ registration with the Division 25.00
- (3) Certification by an interstate motor carrier that it is not regulated by the ~~ICC~~ United States Department of Transportation 25.00
- (4) Application by an interstate motor carrier for an emergency permit

10.00.

(b) Reciprocal Agreements. -- The fee set in subdivision (a)(1) of this section does not apply to the verification of insurance by an interstate motor carrier regulated by the ~~Interstate Commerce Commission~~ United States Department of Transportation if the Division had a reciprocal agreement on November 15, 1991, with another state by which no fee is imposed. The Division had reciprocal agreements as of that date with the following states: California, Delaware, Indiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, Pennsylvania, Texas, and Vermont."

Sec. 30. G.S. 20-393 reads as rewritten:

"§ 20-393. Disclosure of information by employee of Division unlawful.

It shall be unlawful for any agent or employee of the Division knowingly and willfully to divulge any fact or information which may come to his knowledge during the course of any examination or inspection made under authority of this Article, except to the Division or as may be directed by the Division or ~~upon approval of a request to the Division by the Utilities Commission~~ or by a court or judge thereof."

Sec. 31. G.S. 20-118(b)(3) reads as rewritten:

"(3) The gross weight imposed upon the highway by any axle group of a vehicle or combination of vehicles shall not exceed the maximum weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance Between Axles*		Maximum Weight in Pounds for any Group of Two or More Consecutive Axles					
2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles		
4	38000						
5	38000						
6	38000						
7	38000						
8 or less	38000	38000					
more than 8		38000	42000				
9	39000	42500					
10	40000	43500					
11		44000					
12		45000	50000				
13		45500	50500				
14		46500	51500				
15		47000	52000				
16		48000	52500	58000			
17		48500	53500	58500			
18		49500	54000	59000			
19		50000	54500	60000			
20		51000	55500	60500	66000		
21		51500	56000	61000	66500		
22		52500	56500	61500	67000		
23		53000	57500	62500	68000		
24		54000	58000	63000	68500	74000	
25		54500	58500	63500	69000	74500	
26		55500	59500	64000	69500	75000	
27		56000	60000	65000	70000	75500	
28		57000	60500	65500	71000	76500	
29		57500	61500	66000	71500	77000	
30		58500	62000**	66500	72000	77500	
31		59000	62500**	67500	72500	78000	
32		60000	63500**	68000	73000	78500	
33			64000**	68500	74000	79000	
34			64500**	69000	74500	80000	
35			65500**	70000	75000		
36			66000**	70500	75500		
37			66500**	71000	76000		
38			67500**	72000	77000		
39			68000	72500	77500		
40			68500	73000	78000		
41			69500	73500	78500		
42			70000	74000	79000		
43			70500	75000	80000		

1	44	71500	75500
2	45	72000	76000
3	46	72500	76500
4	47	73500	77500
5	48	74000	78000
6	49	74500	78500
7	50	75500	79000
8	51	76000	80000
9	52	76500	
10	53	77500	
11	54	78000	
12	55	78500	
13	56	79500	
14	57	80000	

15 *Distance in Feet Between the Extremes of any Group of Two or
16 More Consecutive Axles.

17 **See exception in G.S. 20-118(c)(1)."

18 Sec. 32. G.S. 20-135.1 is repealed.

19 Sec. 33. G.S. 20-179.3(b)(1) reads as rewritten:

20 "(1) A person convicted of the offense of impaired
21 driving under G.S. 20-138.1 is eligible for a
22 limited driving privilege if:

- 23 a. At the time of the offense he held either a
24 valid driver's license or a license that had
25 been expired for less than one year;
- 26 b. At the time of the offense he had not within
27 the preceding seven years been convicted of an
28 offense involving impaired driving;
- 29 c. Punishment Level Three, Four, or Five was
30 imposed for the offense of impaired driving;
- 31 d. Subsequent to the offense he has not been
32 convicted of, or had an unresolved charge
33 lodged against him for, an offense involving
34 impaired driving; and
- 35 e. The person has obtained and filed with the
36 court a substance abuse assessment of the type
37 specified in G.S. 20-179(m) required by G.S.
38 20-17.6 for the restoration of a drivers
39 license.

40 A person whose North Carolina driver's license is
41 revoked because of a conviction in another
42 jurisdiction substantially equivalent to impaired
43 driving under G.S. 20-138.1 is eligible for a
44 limited driving privilege if he would be eligible

1 for it had the conviction occurred in North
2 Carolina. Eligibility for a limited driving
3 privilege following a revocation under G.S. 20-
4 16.2(d) is governed by G.S. 20-16.2(e1)."
5 Sec. 34. This act is effective upon ratification.

Explanation of Legislative Proposal 10
DMV Trucking Deregulation Changes

Recent changes in federal law have made many provisions of Chapter 20 of the General Statutes that relate to motor carriers obsolete. The 1994 federal FAA Authorization Act prohibited states from regulating rates, routes, and services of motor carriers, other than household movers. This prohibition ended the authority of the North Carolina Utilities Commission to regulate most intrastate motor carriers. In response, the 1995 General Assembly enacted Chapter 523 (House Bill 941) of the 1995 Session Laws. That Chapter removed the then unenforceable statutory provisions in the State's public utility law concerning regulation of motor carriers. The 1995 federal ICC Termination Act abolished the federal Interstate Commerce Commission and transferred its remaining duties to the United States Department of Transportation, to be divided between the Federal Highway Administration and a newly created Surface Transportation Board.

This act changes various provisions in Chapter 20 to conform to the federal changes and to make other technical changes. The changes made in response to the recent federal legislation are in Sections 1 through 30. The statutes affected are in numerical order in those sections for ease of location. Technical changes that are unrelated to the deregulation of trucking begin at Section 31. The changes are described below in a section-by-section analysis.

Section 1 rewrites G.S. 20-1 to eliminate obsolete provisions in that statute. The statute was rewritten in 1973 as a transitional provision in the reorganization of government that was occurring then. As part of the reorganization, what was the Department of Motor Vehicles was merged into the Department of Transportation and became a Division of that Department. The text of the section is therefore obsolete. Furthermore, the Utilities Commission no longer has the power to regulate motor carriers and the reference to that power is obsolete. The Division and the Department of Revenue have the authority under G.S. 105-259(b)(7) to exchange information.

Section 2 changes the definition of "common carriers of passengers" that is part of the definition of passenger vehicle. It changes a reference to a franchise certificate to a certificate of authority to match the terminology used in the utilities law and deletes a reference to the transportation of property for the same reason. Under the utilities law, a common carrier of passengers is a bus company (G.S. 62-3(1a)), and the authority granted to the company by a certificate of authority does not address the transportation of property.

Section 3 adds a new definition of motor carrier that parallels the definition of motor carrier under section 13102 of the ICC Termination Act.

Section 4 deletes obsolete definitions of exempt for-hire vehicles, common carrier of property vehicles, private hauler vehicles, and contract carrier of property vehicles. These definitions are all linked to categories of property-hauling trucks regulated by the Utilities Commission; these categories and the regulation by the Utilities Commission no longer exist.

Section 5 deletes a reference in the commercial drivers license law to common and contract carriers and substitutes a reference to motor carriers. There is no longer a distinction between common and contract carriers.

Section 6 repeals G.S. 20-64.1. That statute refers to the revocation of license plates by the Utilities Commission under provisions of law that no longer exist.

Section 7 amends G.S. 20-87(1) to remove references to common carrier, contract carrier, and exempt for-hire passenger vehicles and substitute a generic reference to passenger vehicles operated for compensation. It also deletes obsolete taxicab provisions; G.S. 20-280 requires taxicabs to have financial responsibility and G.S. 160A-304 addresses the regulation of taxicabs by cities and towns.

Section 8 amends G.S. 20-88(b), the schedule of registration weight fees, to delete references to the obsolete categories of private hauler, contract carrier, flat rate common carrier, and exempt for-hire carrier.

Section 9 repeals 20-88(f). Its provisions about the registration of vehicles of nonresidents are unnecessary and it contains an obsolete reference to taxation at the common carrier rate. The amendment made to G.S. 20-88(b) by the previous section of this act substitutes a general rate for the previous common, contract, and exempt rate.

Section 10 amends G.S. 20-91 to reflect its current application as the authority for audits of persons who register vehicles under the International Registration Plan. It changes references to carriers of passengers or property to vehicles registered under the International Registration Plan.

Section 11 repeals a statute, G.S. 20-92, that is unnecessary in part and obsolete in the remaining part. The tax referred to in this section was primarily a gross receipts tax that was imposed as a franchise tax from the 1930's until the last vestige of it was eliminated effective in 1982. The category of common carrier of property no longer exists and even if it did, the revocation of a common carrier plate for failure to pay registration fees could be handled the same as the failure of other vehicles to pay.

Section 12 amends 20-91 to delete references to repeal of franchise issued by Utilities Commission as an enforcement action.

Section 13 rewrites G.S. 20-101 to delete references to the Utilities Commission and to categories of vehicles, such as exempt for-hire vehicles, that no longer exist.

Section 14 repeals G.S. 20-113 because it is obsolete. It refers to qualification under the tax provisions of Chapter 20 for a class of service. The tax provisions and the classifications of services, however, do not exist.

Section 15 deletes a reference in G.S. 20-116(e) to the Interstate Commerce Commission and inserts a reference to the Federal Highway Administration. It also applies the definition of "Division" and "rule".

Section 16 amends G.S. 20-123 to delete portions that are repeated in G.S. 20-116(e) and contain obsolete references to the Interstate Commerce Commission.

Section 17 amends an exception to the prohibition on the use of red lights in vehicles to delete a reference to the abolished Interstate Commerce Commission and substitute a reference to the Federal Highway Administration.

Section 18 revises definitions to apply the term motor carrier of passengers correctly.

Section 19 amends G.S. 20-279.32, the security deposit insurance provisions, to conform the current exception for regulated motor carriers to the deregulated motor carriers. The same group is covered under both the current and revised law.

Section 20 amends the financial responsibility law to conform the current exception for regulated motor carriers to the deregulated motor carriers. The same group is covered under both the current and the revised law.

Section 21 rewrites the definition section for Article 17, Motor Carrier Safety Regulation Unit, to delete now obsolete definitions, to add a definition of federal safety regulations for ease of reference, and to retain the definitions of foreign commerce, interstate commerce, and intrastate commerce. Section 3 of this bill adds definitions of for-hire motor carrier, private motor carrier, and motor carrier to G.S. 20-4.01, the definition section for all of Chapter 20. The definitions in Article 17 stem from the transfer in the early 1980s of part of the responsibility for regulating motor carriers from the North Carolina Utilities Commission to the Division of Motor Vehicles.

Section 22 repeals G.S. 20-378 because it is redundant; it repeats 20-2(b).

Section 23 amends 20-379 to delete obsolete references to the North Carolina Utilities Commission and the enforcement of Chapter 62.

Section 24 amends 20-380 to delete obsolete references to the North Carolina Utilities Commission.

Section 25 amends 20-381 to delete obsolete references to the North Carolina Utilities Commission.

Section 26 amends G.S. 20-382 to correct references to the Interstate Commerce Commission.

Section 27 amends 20-382.1, registration of intrastate for-hire motor vehicles, to eliminate references to being regulated or exempt from regulation by the North Carolina Utilities Commission. The section substitutes a registration requirement with the Division.

Section 28 repeals 20-384(a) and rewrites the catchline appropriately. 20-384(a) repeats 20-381(1).

Section 29 revises the fee schedule to eliminate references to filings that no longer exist.

Section 30 amends 20-393 to eliminate obsolete references to the North Carolina Utilities Commission.

Sections 31 through 33 make other technical changes. Section 31 corrects an obsolete reference in the "bridge formula" weight table to an exception that expired August 31, 1988. The former exception allowed tandem axles on tank trailers, dump trailers, and ocean going transport containers to carry up to 34,000 pounds if the distance between the 2nd and 5th axles in consecutive sets of tandem axles was at least 30 feet. The weight table has not been adjusted accordingly since the exception expired.

Section 32 repeals an unnecessary statute on seat belts. The section requires the Commissioner to approve seat safety belts before they can be used. The Commissioner does not set standards for this equipment because G.S. 20-135.2 makes the direction to the Commissioner moot. That statute sets the standard for seat safety belts.

Section 33 corrects an incorrect cross reference in the limited driving privilege statute to substance abuse assessments. Chapter 496 of the 1995 Session Laws (House Bill 458) repealed G.S. 20-179(m) and Chapter 506 of the 1995 Session Laws added a new cross reference to the statute that had been repealed by the previous act.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S or H

D

LEGISLATIVE PROPOSAL 11

95-LJ-36

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Privatize All DMV Tag Offices.

(Public)

Sponsors: Transportation Oversight.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE ALL VEHICLE REGISTRATION OFFICES OF THE
3 DIVISION OF MOTOR VEHICLES TO BE OPERATED BY A CONTRACT AGENT.
4 The General Assembly of North Carolina enacts:
5 Section 1. G.S. 20-63(h) reads as rewritten:
6 "(h) Commission Contracts for Issuance of Plates and
7 Certificates. -- All registration plates, registration
8 ~~certificates cards,~~ and certificates of title issued by the
9 Division, outside of those ~~issued from the Raleigh offices of the~~
10 ~~said Division and those~~ issued and handled through the United
11 States mail, shall be issued ~~insofar as practicable and possible~~
12 ~~through commission contracts entered into by the Division for the~~
13 ~~issuance of such plates and certificates in localities throughout~~
14 ~~North Carolina with persons, firms, corporations or governmental~~
15 ~~subdivisions of the State of North Carolina and the Division~~
16 ~~shall make a reasonable effort in every locality, except as~~
17 ~~hereinbefore noted, to enter into a commission contract for the~~
18 ~~issuance of such plates and certificates and a record of these~~
19 ~~efforts shall be maintained in the Division. In the event the~~
20 ~~Division is unsuccessful in making commission contracts as~~
21 ~~hereinbefore set out it shall then issue said plates and~~
22 ~~certificates through the regular employees of the Division.~~

1 ~~Whenever registration plates, registration certificates and~~
2 ~~certificates of title are issued by the Division through~~
3 ~~commission contract arrangements, the Division shall provide~~
4 ~~proper supervision of such distribution. contracts with one or~~
5 ~~more entities. The Division must supervise the performance of~~
6 ~~the entities with whom it contracts. Commission contracts~~
7 ~~entered under this subsection shall provide for the payment of~~
8 ~~compensation at a rate of sixty cents (60¢) per transaction.~~
9 ~~based on a specified rate for each transaction performed under~~
10 ~~the contract. The applicable rate and the transactions to which~~
11 ~~the rate applies shall be set by the General Assembly each year~~
12 ~~in the Current Operations Appropriations Act. If the General~~
13 ~~Assembly does not set a rate or the transactions to which the~~
14 ~~rate applies for a year, the rate or transactions last set by the~~
15 ~~General Assembly remain in effect. Nothing contained in this~~
16 ~~subsection will allow or permit the operation of fewer outlets in~~
17 ~~any county in this State than are now being operated."~~

18 Sec. 2. This act is effective upon ratification.
19 Notwithstanding the effective date of the act, the Division of
20 Motor Vehicles of the Department of Transportation may issue
21 registration cards, registration plates, and certificates of
22 title from its Raleigh office and its Charlotte office until July
23 1, 1997, or until the effective date of a commission contract to
24 provide these services, whichever comes first.
25

Explanation of Legislative Proposal 11
Privatize All DMV Tag Offices

This proposal eliminates the "Raleigh window" and the "Charlotte window" of the Division of Motor Vehicles effective July 1, 1997. These two offices are the only "tag" offices operated by employees of the Division. All the other tag offices are operated by contract agents.

The Joint Legislative Transportation Oversight Committee adopted this proposal after receiving a report from the Productivity Management Section comparing the vehicle registration costs of contract agents with those of the Raleigh and Charlotte offices. The study found that the transaction cost at the contract offices is \$1.76, the cost at the Raleigh Office is \$2.50, and the cost at the Charlotte Office is \$3.20. The study found that the combined annual savings of privatizing the Raleigh and Charlotte offices would be approximately \$551,544.

The bill requires all vehicle registration services, except those handled by mail, to be handled by contract agents. The bill specifically eliminates the authority of the Division to operate the Raleigh office. It does not make a similar statutory change for the Charlotte office because the operation of that office is not specifically authorized by the statute.

The bill deletes the obsolete reference to the \$.60 transaction rate and substitutes a reference to the rate set in the Current Operations Appropriations Act. The rate set in the appropriations act is the controlling rate.

MANDATED REPORTS

The following is a list of the reports the Committee was mandated to make by action of the General Assembly.

1. Liens on Towed and Stored Vehicles

Authority: Section 18.1 of Chapter 507 of the 1995 Session Laws.

Disposition: The Committee completed study of this issue, and its recommendation is included in the legislative proposals section of this report.

2. Mid-Currituck County Bridge Funding

Authority: Section 2 of Chapter 485 of the 1995 Session Laws.

Disposition: The Committee received a report on this topic prepared by Graduate students from the Terry Sanford Institute of Public Policy, Duke University.

3. Wake County DMV Customer Service Center

Authority: Section 18.4 of Chapter 507 of the 1995 Session Laws.

Disposition: The Committee deferred action on this topic pending completion of the audit of the Division of Motor Vehicles by the Joint Legislative Commission on Government Operations.

4. Use of Special Registration Plate Fund for Visitor Centers.

Authority: Section 18.7 of Chapter 324 of the 1995 Session Laws.

Disposition: Subcommittee scheduled to meet on this topic April 30, 1996 was unable to take action do to lack of a quorum.

**JOINT LEGISLATIVE
TRANSPORTATION OVERSIGHT
COMMITTEE**



**REPORT TO THE
1997 GENERAL ASSEMBLY
OF NORTH CAROLINA
1997 REGULAR SESSION**

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TABLE OF CONTENTS

LETTER OF TRANSMITTAL	i
COMMITTEE MEMBERSHIP	ii
PREFACE	iii
COMMITTEE PROCEEDINGS	1
RECOMMENDATIONS AND LEGISLATIVE PROPOSALS	4
1. AN ACT TO INCREASE FROM ONE YEAR TO TWO YEARS THE RENEWAL PERIOD FOR LICENSES ISSUED TO COMMERCIAL DRIVER TRAINING SCHOOLS AND INSTRUCTORS AND TO ADJUST THE RENEWAL FEES ACCORDINGLY	4
2. AN ACT TO INCLUDE A NO CONTEST PLEA IN THE DEFINITION OF AN OUT-OF-STATE DRIVING CONVICTION	6
3. AN ACT TO INCLUDE THE COLLECTION OF AN EMISSIONS PENALTY IN THE LIST OF ITEMS FOR WHICH BRANCH AGENTS OF THE DIVISION OF MOTOR VEHICLES ARE COMPANSATED	8
4. AN ACT TO MODIFY THE DEFINITION OF MOPED THAT IS USED IN THE MOTOR VEHICLE LAWS	10
5. AN ACT TO IMPLEMENT A RECOMMENDATION OF THE PERFROMANCE AUDIT OF THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF TRANSPORTATION BY ELIMINATING THE POSITION OF COMMISSIONER OF MOTOR VEHICLES AND ALLOWING THE SECRETARY OF TRANSPORTATION TO DESIGNATE A DEPUTY TO BE THE HEAD OF THE DIVISION	11
6. AN ACT TO MODIFY THE PENALTY SCHEDULE FOR VIOLATIONS OF THE VEHICLE EMISSION INSPECTION PROGRAM, TO CLARIFY THE PROCEDURE FOR IMPOSING THE PENALTIES, AND TO MAKE OTHER CHANGES TO THE VEHICLE EMISSION INSPECTION LAWS	31
7. AN ACT TO CLARIFY THAT THE FEE SET BY LAW FOR A VEHICLE EMISSIONS INSPECTION IS A UNIFORM STATEWIDE FEE	43
8. AN ACT TO ELIMINATE THE ONE DOLLAR FEE FOR MAIL-IN VEHICLE REGISTRATION	45

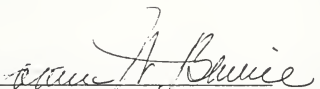
9. AN ACT TO ESTABLISH A STANDARD TIME PERIOD OF 60 DAYS IN WHICH TO OBTAIN OR CHANGE A DRIVERS LICENSE, A SPECIAL IDENTIFICATION CARD, OR A VEHICLE REGISTRATION	48
10. AN ACT TO REDUCE BY HALF THE NUMBER OF SALVAGE INSPECTIONS PERFORMED BY DMV ENFORCEMENT AND TO ELIMINATE ISSUANCE OF UNBRANDED TITLES FOR VEHICLES BRANDED IN OTHER STATES	57
11. AN ACT TO REDUCE THE NUMBER OF POSITIONS IN THE DIVISION OF MOTOR VEHICLES ENFORCEMENT SECTION	60
12. A JOINT RESOLUTION URGING CONGRESS TO REPEAL THE DRIVER'S PRIVACY PROTECTION ACT OF 1994, AND AN ACT TO INDEMNIFY STATE EMPLOYEES FOR ANY LEGAL COSTS ASSOCIATED WITH NONCOMPLIANCE WITH THE FEDERAL DRIVER'S LICENSE PROVACY PROTECTION ACT	62
MANDATED REPORTS	66
RESULTS OF 1996 LEGISLATIVE PROPOSALS	67

January 29, 1997

TO THE MEMBERS OF THE 1997 GENERAL ASSEMBLY (REGULAR SESSION);

The Joint Legislative Transportation Oversight Committee submits its annual report to you for your consideration. The report was prepared by the Committee pursuant to G.S. 120-70.51(a).

Respectfully submitted,



Representative Joanne Bowie

Co-chair



Senator David Hoyle

Co-chair

Joint Legislative Transportation Oversight Committee

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1995 - 1997**

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PREFACE

The Joint Legislative Transportation Oversight Committee was established in 1989 by Article 12E of Chapter 120 of the General Statutes. The Committee was formed in conjunction with the creation of the Highway Trust Fund. The Committee consists of eight members of the Senate appointed by the President Pro Tempore of the Senate and eight members of the House of Representatives appointed by the Speaker of the House of Representatives. Members serve two-year terms.

The Committee's oversight powers are broad, as quoted from G.S. 120-70.51(a):

- Review reports prepared by the Department of Transportation or any other agency of State government related, in any manner, to transportation, when those reports are required by law.
- Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund, the Highway Fund, the General Fund, or any other fund, when those expenditures are related, in any manner, to transportation.
- Determine whether funds related, in any manner, to transportation are being spent in accordance with law.
- Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund, the Highway Fund, the General Fund, or any other fund when those expenditures are related, in any manner, to transportation may be used, including revisions needed to meet any statutory timetable or program.
- Report to the General Assembly at the beginning of each regular session concerning its determination of needed changes in the funding or operation of programs related, in any manner, to transportation.

COMMITTEE PROCEEDINGS

Following the 1996 Regular Session and Second Extraordinary Session of the General Assembly, the Committee met four times from September 1996 to January 1997. The Committee examined a variety of topics, as summarized below.

September 4, 1996

The first meeting of the Committee following the 1996 Short Session and Second Extraordinary Session was held on September 4, 1996 at 9:00 a.m. in Room 544 of the Legislative Office Building.

The Committee heard an update on the implementation of the State Titling and Registration System (STARS) from DOT Deputy Secretary Frederick Aikens and Carol Howard, Director of the DMV Vehicle Registration Section. The update indicated that the system had missed its scheduled May 1996 implementation date, and that a conflict with the implementation of the digitized driver license system had further delayed the STARS implementation until November 12, 1996. The Committee also heard from Mercidee Benton, DOT Director of Administration on plans for improvement of the DOT accounting system over the next five years. The plans were formulated in conjunction with the Office of State controller and will begin with a Business Practice Review of DOT financial procedures. Committee staff provided briefings on the several topics including: 1) actions of the General Assembly on transportation legislation and appropriations during the Short Session and Extra Session; 2) 1995-96 Highway Fund revenues and expenditures; and 3) the schedule of reports that would be made to the committee by DOT prior to the 1997 legislative session.

The Committee also heard a presentation by State Highway Administrator Larry Goode on changes in speed limits on State highways and on the accident in a DOT work zone on I-85. Mr. Goode provided maps and charts indicating where speed limit changes were planned and indicated that current driver speeds served as a guide to the establishment of new speed limits. Finally, the Committee heard a presentation on public involvement in the DOT planning and design process by Calvin Leggett, DOT Director of Planning and Programming.

November 14, 1996

The second meeting of the Committee was held on November 14, 1996 at 10:00 a.m. in Room 544 of the Legislative Office Building.

The Committee heard a report from DOT Deputy Chief Engineer C.A. Gardner on the efforts of DOT employees in response to Hurricane Fran, which indicated that over 3,500 DOT employees had participated in the removal of over 5,000,000 cubic yards of debris at an unreimbursed cost of over \$30 million. Committee staff presented information on two concerns about the DMV enforcement section that were raised by the performance audit of DMV conducted in the spring of 1996. The presentations focused on the effect of DMV's rest area security program on its weight enforcement activities and on the amount of time devoted to carrying out revocation orders. A subcommittee chaired by Senator Gulley and Representative McMahan was appointed to investigate possible changes to revocation order procedures.

Committee staff provided information on the North Carolina Railroad Company and recent legal actions that have invalidated the lease of the railroad to Norfolk Southern. State Highway Administrator Larry Goode presented the quarterly report on construction contracts financed through use of cash flow procedures. Committee staff presented an update on the effectiveness of the 1995 legislation to change the point of motor fuel taxation to the terminal rack. The presentation indicated that motor fuel tax revenues had increased as expected as a result of the legislation. Major Jerry Arrowood of DMV Enforcement presented a mandated report on changes to the salvage vehicle inspection laws. The report proposed that only salvage vehicles that are less than six model years old be inspected and indicated that this could cut salvage inspections in half. Committee staff was instructed to prepare draft legislation for the next meeting that would amend the salvage statutes. Deputy Secretary Frederick Aikens presented plans for studies of technology improvements at DMV, as required by statute. Mr. Aikens also demonstrated the DMV automated voice response system for answering telephone inquiries. Wayne Hurder, Director of the DMV Driver License Section presented a mandated report on the section's efforts to create a formula for the allocation of driver license offices throughout the State. Final presentation of the formula was promised before the 1997 legislative session.

December 12, 1996

The third meeting of the Committee was held on December 12, 1996 at 10:00 a.m. in Room 544 of the Legislative Office Building.

The Committee heard the report of the subcommittee on DMV revocation orders, which indicated that it needed further time to examine the issue. Committee staff presented information on the length of driver license renewal periods in other states, which indicated that North Carolina's five-year period is above the national average. Duane Smith, DOT Management Information Systems staff, presented a mandated report on improvements that should be made to DMV's International Registration Plan software, which indicated that improvements to the system would cost \$855,400 for 1997-98 and \$1,422,000 for 1998-99. Mr. Smith also presented a mandated report on the Department's use of contract programmers for maintenance of the driver license and vehicle registration computer systems. The Department recommended that the use of contractors be continued, but at a reduced level.

Don Goins, DOT Chief Engineer, presented reports on the maintenance backlog and maintenance funding. The Committee discussed the performance of the Department at improving road conditions and asked for further information on the topic. The Committee considered draft legislation on salvage inspection changes, emissions penalties, and driver license privacy, but took no action regarding any of the legislation. The Committee also heard from the Department's Legislative Liaison, Ruth Sappie, concerning several legislative proposals that the Department would like the Committee to consider. The Committee agreed to review draft bills at the January meeting. The Committee expressed its support for a proposal, presented by State Highway Administrator Larry Goode, to use proceeds of a surplus property sale to build additional salt facilities and make renovations at an airport facility in Edenton.

January 15, 1997

The final meeting of the Committee before the 1997 Session of the General Assembly was held on January 15, 1997 at 10:00 a.m. in Room 643 of the Legislative Office Building.

The Committee heard a report by Deputy Secretary Frederick Aikens on DOT's efforts to implement recommendations of the DMV performance audit. The report indicated that some progress had been made in the areas of automation but that implementation of many recommendations remains incomplete. In response to a legislative mandate to study the funding of driver education programs, Committee staff presented a report on the subject. Deputy Chief Engineer C.A. Gardner presented a mandated report on implementation of the Green Roads initiative to plant trees along State highways. The report indicated that only 300 of the planned 700 acres could be planted this year due to a shortage of seedlings.

The Department's Legislative Liaison, Ruth Sappie, presented a mandated report on the funding of visitor centers, which recommended that no more centers be built, that State funding for one center be eliminated, that all remaining centers should pay their own utility costs, and that State welcome centers should be transferred from the Department of Commerce to the Department of Transportation. The Committee heard a report on asphalt quality issues from Deputy State Highway Administrator B.G. Jenkins. Committee staff presented the quarterly cash flow construction report. Wayne Hurder, Director of DMV's Driver License Section presented the final version of the mandated driver license office plan, which included recommendations for closure of some offices and staffing changes at others.

The Committee considered and approved legislation on the following matters:

- 1) expanding the definition of out-of-state driving convictions;
- 2) extending the renewal period for driving instructor licenses to two years;
- 3) allowing tag agents to receive compensation for collecting emission inspection civil penalties;
- 4) reducing motor vehicle salvage inspections;
- 5) reducing the number of DMV inspectors;
- 6) removing the fee for mail-in renewal of registration;
- 7) establishing a standard time of 60 days to change or obtain driver license and registration information;
- 8) making technical changes of laws related to mopeds;
- 9) converting the DMV commissioner position to a Deputy Secretary;
- 10) modifying emissions inspection laws;
- 11) requiring safety and emissions inspectors to fully collect fees; and
- 12) resolving to oppose implementation of the Federal Driver License Privacy Protection Act and indemnify State employees for legal costs arising from noncompliance with the Act.

**RECOMMENDATIONS
&
LEGISLATIVE PROPOSALS**

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 1

97-LJX-012(1.2)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: 2-year Driver Instructor License.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCREASE FROM ONE YEAR TO TWO YEARS THE RENEWAL PERIOD
FOR LICENSES ISSUED TO COMMERCIAL DRIVER TRAINING SCHOOLS AND
INSTRUCTORS AND TO ADJUST THE RENEWAL FEES ACCORDINGLY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-324 reads as rewritten:

"§ 20-324. Expiration and renewal of licenses; fees.

~~All licenses issued under the provisions of this Article shall
expire on the last day of June in the year following their
issuance and may be renewed upon application to the Commissioner
as prescribed by his regulations. Each application for a new or
renewal school license shall be accompanied by a fee of forty
dollars (\$40.00), and each application for a new or a renewal
instructor's license shall be accompanied by a fee of eight
dollars (\$8.00). The license fees collected under this section
shall be used under the supervision and direction of the Director
of the Budget for the administration of this Article. No license
fee shall be refunded in the event that the license is rejected,
suspended, or revoked.~~

(a) Renewal. -- A license issued under this Article expires
two years after the date the license is issued. To renew a

1 license, the license holder must file an application for renewal
2 with the Division.

3 (b) Fees. -- An application for an initial license or the
4 renewal of a license must be accompanied by the application fee
5 for the license. The application fee for a school license is
6 eighty dollars (\$80.00). The application fee for an instructor
7 license is sixteen dollars (\$16.00). The application fee for a
8 license is not refundable. Fees collected under this section
9 must be credited to the Highway Fund."

10 Section 2. This act becomes effective July 1, 1997.

Explanation of Proposal

This proposal changes the renewal cycle for commercial driver training schools and instructors in those schools from one year to two years. The proposal adjusts the renewal fees accordingly by doubling the current annual renewal fees. The proposal also puts the renewals on a staggered basis so that licenses expire two years after they are issued. Under current law, all licenses expire annually on June 30. The proposal was requested by the Division of Motor Vehicles.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 2

97-LJ-011

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Out-of-state Driving Conviction.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCLUDE A NO CONTEST PLEA IN THE DEFINITION OF AN OUT-OF-STATE DRIVING CONVICTION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.01(4a) reads as rewritten:

"(4a) Conviction. -- A conviction for an offense committed in North Carolina or another state:

a. In-State. When referring to an offense committed in North Carolina, the term means any of the following:

1. A final conviction of a criminal offense, including a no contest plea.
2. A determination that a person is responsible for an infraction, including a no contest plea.
3. An unvacated forfeiture of cash in the full amount of a bond required by Article 26 of Chapter 15A of the General Statutes.
4. A third or subsequent prayer for judgment continued within any five-year period.

b. Out-of-State. When referring to an offense committed outside North Carolina, the term means any of the following:

1. An unvacated adjudication of ~~guilt,~~
guilt, including a no contest plea.
2. A determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal.
3. An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
4. A violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated."

Section 2. This act becomes effective November 1, 1997, and applies to offenses committed on or after that date.

Explanation of Proposal

This proposal changes the definition of out-of-state conviction for drivers license purposes. It includes a plea of no contest in the definition. This change makes an out-of-state conviction the same as an in-state-conviction with respect to no contest pleas. Under current law, a plea of no contest is included in the definition of an in-state-conviction but not an out-of-state conviction.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 3
97-LJ-013

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Change Tag Agent Compensation.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INCLUDE THE COLLECTION OF AN EMISSIONS PENALTY IN THE LIST OF ITEMS FOR WHICH BRANCH AGENTS OF THE DIVISION OF MOTOR VEHICLES ARE COMPENSATED.

The General Assembly of North Carolina enacts:

Section 1. Section 155 of the 1993 Session Laws, as amended by Section 20.1 of Chapter 769 of the 1993 Session Laws and by Section 18.18 of Chapter 507 of the 1995 Session Laws (Reg. Sess. 1996), reads as rewritten:

"Sec. 155. The Division of Motor Vehicles of the Department of Transportation shall compensate a contractor with whom it has a contract under G.S. 20-63(h) at the rate of one dollar and twenty cents (\$1.20) for each transaction performed in accordance with the requirements set by the Division. A transaction is any of the following activities:

- (1) Issuance of a registration plate, a registration card, a registration renewal sticker, or a certificate of title.
- (2) Issuance of a handicapped placard or handicapped identification card.
- (3) Acceptance of an application for a personalized registration plate.

- (4) Acceptance of a surrendered registration plate, registration card, or registration renewal sticker, or acceptance of an affidavit stating why a person cannot surrender a registration plate, registration card, or registration renewal sticker.
- (5) Cancellation of a title because the vehicle has been junked.
- (6) Acceptance of an application for, or issuance of, a refund for a fee or a tax, other than the highway use tax.
- (7) Receipt of the civil penalty imposed by G.S. 20-309 for a lapse in financial responsibility or receipt of the restoration fee imposed by that statute.
- (7a) Receipt of the civil penalty imposed by G.S. 20-183.8A for an emission inspection violation.
- (8) Acceptance of a notice of failure to maintain financial responsibility for a motor vehicle.
- (9) Collection of the highway use tax.

Performance at the same time of any combination of the items that are listed within each subdivision or are listed within subdivisions (1) through (8) of this section is a single transaction. Performance of the item listed in subdivision (9) of this section in combination with any other items listed in this section is a separate transaction."

Section 2. This act becomes effective July 1, 1997.

Explanation of Proposal

This proposal adds collection of an emissions penalty to the list of transactions for which branch agents of the Division of Motor Vehicles are compensated. Under current law, the registration of a vehicle that was not inspected within 4 months of the required time cannot be renewed without payment of a civil penalty.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 4

97-LJ-14

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Modify Definition of Moped.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO MODIFY THE DEFINITION OF MOPED THAT IS USED IN THE
3 MOTOR VEHICLE LAWS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-4.01(27)d1. reads as rewritten:

6 " d1. Moped. -- ~~Vehicles having~~ A vehicle that has
7 two or three wheels and operable pedals and
8 ~~equipped with a motor which~~ that does not
9 exceed 50 cubic centimeters piston
10 displacement and cannot propel the vehicle at
11 a speed greater than 20 miles per hour on a
12 level surface."

13 Section 2. This act is effective when it becomes law.

Explanation of Proposal

This proposal deletes the requirement that a moped have pedals.
Some mopeds that are manufactured now do not have pedals.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 5
97-LJ-15

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: DMV Head Is A DOT Deputy.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT A RECOMMENDATION OF THE PERFORMANCE AUDIT OF
2 THE DIVISION OF MOTOR VEHICLES OF THE DEPARTMENT OF
3 TRANSPORTATION BY ELIMINATING THE POSITION OF COMMISSIONER OF
4 MOTOR VEHICLES AND ALLOWING THE SECRETARY OF TRANSPORTATION TO
5 DESIGNATE A DEPUTY TO BE THE HEAD OF THE DIVISION.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 20-1 reads as rewritten:

8 "§ 20-1. Division of Motor Vehicles established.

9 The Division of Motor Vehicles of the Department of
10 Transportation is established. This Chapter sets out the powers
11 and duties of the Division. The Secretary of Transportation
12 shall administer the Division. The Secretary may delegate to a
13 Deputy of the Department of Transportation or another employee of
14 the Department any duty of the Secretary concerning the
15 administration of the Division.

16 Sec. 2. G.S. 20-2 reads as rewritten:

17 "§ 20-2. ~~Commissioner of Motor Vehicles;~~ Authority to adopt
18 rules.

19 ~~(a) Commissioner and Assistants. -- The Division of Motor~~
20 ~~Vehicles shall be administered by the Commissioner of Motor~~
21 ~~Vehicles, who shall be appointed by and serve at the pleasure of~~
22 ~~the Secretary of the Department of Transportation. The~~
23

~~1 Commissioner shall be paid an annual salary to be fixed by the
2 General Assembly in the Current Operations Appropriations Act and
3 allowed his traveling expenses as allowed by law.~~

~~4 In any action, proceeding, or matter of any kind, to which the
5 Commissioner of Motor Vehicles is a party or in which he may have
6 an interest, all pleadings, legal notices, proof of claim,
7 warrants for collection, certificates of tax liability,
8 executions, and other legal documents, may be signed and verified
9 on behalf of the Commissioner of Motor Vehicles by the Assistant
10 Commissioner of Motor Vehicles or by any director or assistant
11 director of any section of the Division of Motor Vehicles or by
12 any other agent or employee of the Division so authorized by the
13 Commissioner of Motor Vehicles.~~

~~14 (b) Rules. -- The Commissioner Secretary may adopt rules to
15 implement this Chapter. Chapter 150B of the General Statutes
16 governs the adoption of rules by the Commissioner- Secretary."~~

17 Sec. 3. G.S. 20-3 is repealed.

18 Sec. 4. G.S. 20-4.01(4) is repealed.

19 Sec. 5. G.S. 20-4.01 is amended by adding a new
20 subdivision in the appropriate alphabetical order to read:

21 "(39a) Secretary. -- The Secretary of the North
22 Carolina Department of Transportation."

23 Sec. 6. G.S. 20-4.2(2) is repealed.

24 Sec. 7. The following statutes are amended by deleting
25 the word "Commissioner", the phrase "Commissioner of Motor
26 Vehicles", the phrase "State Commissioner of Motor Vehicles", or
27 the phrase "Commissioner of the Division of Motor Vehicles" each
28 time they appear and substituting the word "Secretary":

29 G.S. 20-4.3

30 G.S. 20-4.4

31 G.S. 20-4.6

32 G.S. 20-4.10

33 G.S. 20-4.20

34 G.S. 20-4.22

35 G.S. 20-7

36 G.S. 20-9

37 G.S. 20-11

38 G.S. 20-13.2

39 G.S. 20-16.1

40 G.S. 20-17.1

41 G.S. 20-19

42 G.S. 20-24

43 G.S. 20-26

44 G.S. 20-29.1

1	G.S. 20-30
2	G.S. 20-37.12
3	G.S. 20-37.16
4	G.S. 20-37.23
5	G.S. 20-39
6	G.S. 20-40
7	G.S. 20-41
8	G.S. 20-42
9	G.S. 20-43
10	G.S. 20-43.4
11	G.S. 20-45
12	G.S. 20-47
13	G.S. 20-48
14	G.S. 20-50
15	G.S. 20-56
16	G.S. 20-57
17	G.S. 20-61
18	G.S. 20-63
19	G.S. 20-64
20	G.S. 20-64.2
21	G.S. 20-66
22	G.S. 20-71.2
23	G.S. 20-71.3
24	G.S. 20-71.4
25	G.S. 20-78
26	G.S. 20-83
27	G.S. 20-84
28	G.S. 20-84.2
29	G.S. 20-85.1
30	G.S. 20-86.1
31	G.S. 20-91
32	G.S. 20-91.1
33	G.S. 20-91.2
34	G.S. 20-94
35	G.S. 20-97
36	G.S. 20-99
37	G.S. 20-100
38	G.S. 20-108
39	G.S. 20-109.1
40	G.S. 20-114
41	G.S. 20-124
42	G.S. 20-125
43	G.S. 20-125.1
44	G.S. 20-126

1	G.S. 20-127
2	G.S. 20-128.2
3	G.S. 20-129
4	G.S. 20-129.2
5	G.S. 20-130
6	G.S. 20-133
7	G.S. 20-135.2
8	G.S. 20-135.2A
9	G.S. 20-135.2B
10	G.S. 20-135.4
11	G.S. 20-140.4
12	G.S. 20-141.3
13	G.S. 20-179.3
14	G.S. 20-183.3
15	G.S. 20-183.8D
16	G.S. 20-183.8E
17	G.S. 20-218
18	G.S. 20-279.2
19	G.S. 20-279.3
20	G.S. 20-279.5
21	G.S. 20-279.6
22	G.S. 20-279.6A
23	G.S. 20-279.7
24	G.S. 20-279.8
25	G.S. 20-279.9
26	G.S. 20-279.10
27	G.S. 20-279.11
28	G.S. 20-279.12
29	G.S. 20-279.13
30	G.S. 20-279.16
31	G.S. 20-279.19
32	G.S. 20-279.20
33	G.S. 20-279.22
34	G.S. 20-279.24
35	G.S. 20-279.25
36	G.S. 20-279.26
37	G.S. 20-279.27
38	G.S. 20-279.28
39	G.S. 20-279.29
40	G.S. 20-279.30
41	G.S. 20-279.31
42	G.S. 20-279.32
43	G.S. 20-279.33
44	G.S. 20-281

1 G.S. 20-283
2 G.S. 20-288
3 G.S. 20-295
4 G.S. 20-296
5 G.S. 20-300
6 G.S. 20-301
7 G.S. 20-302
8 G.S. 20-305
9 G.S. 20-305.1
10 G.S. 20-305.2
11 G.S. 20-305.3
12 G.S. 20-305.4
13 G.S. 20-308.1
14 G.S. 20-321
15 G.S. 20-322
16 G.S. 20-323
17 G.S. 20-324
18 G.S. 20-325
19 G.S. 20-382
20 G.S. 20-382.2.

21 Sec. 8. G.S. 20-49 reads as rewritten:

22 "§ 20-49. Police authority of Division.

23 ~~The Commissioner and such officers~~ Officers and inspectors of
24 the Division ~~as he shall designate~~ designated by the Secretary
25 and all members of the Highway Patrol shall have the power:

- 26 (1) Of peace officers for the purpose of enforcing the
27 provisions of this Article and of any other law
28 regulating the operation of vehicles or the use of
29 the highways.
30 (2) To make arrests upon view and without warrant for
31 any violation committed in their presence of any of
32 the provisions of this Article or other laws
33 regulating the operation of vehicles or the use of
34 the highways.
35 (3) At all time to direct all traffic in conformance
36 with law, and in the event of a fire or other
37 emergency or to expedite traffic or to insure
38 safety, to direct traffic as conditions may
39 require, notwithstanding the provisions of law.
40 (4) When on duty, upon reasonable belief that any
41 vehicle is being operated in violation of any
42 provision of this Article or of any other law
43 regulating the operation of vehicles to require the
44 driver thereof to stop and exhibit his driver's

license and the registration card issued for the vehicle, and submit to an inspection of such vehicle, the registration plates and registration card thereon or to an inspection and test of the equipment of such vehicle.

- (5) To inspect any vehicle of a type required to be registered hereunder in any public garage or repair shop or in any place where such vehicles are held for sale or wrecking, for the purpose of locating stolen vehicles and investigating the title and registration thereof.
- (6) To serve all warrants relating to the enforcement of the laws regulating the operation of vehicles or the use of the highways.
- (7) To investigate traffic accidents and secure testimony of witnesses or of persons involved.
- (8) To investigate reported thefts of motor vehicles, trailers and semitrailers and make arrest for thefts thereof.
- (9) For the purpose of determining compliance with the provisions of this Chapter, to inspect all files and records of the persons hereinafter designated and required to be kept under the provisions of this Chapter or of the registrations of the Division:
 - a. Persons dealing in or selling and buying new, used or junked motor vehicles and motor vehicle parts; and
 - b. Persons operating garages or other places where motor vehicles are repaired, dismantled, or stored."

Sec. 9. G.S. 20-79.1(j) is repealed.

Sec. 10. G.S. 20-84.2 is amended by deleting the word "Commissioner's" each time it appears and substituting the word "Secretary's".

Sec. 11. G.S. 20-88.01 reads as rewritten:

"§ 20-88.01. Revocation of registration for failure to register for or comply with road tax or pay civil penalty for buying or selling non-tax-paid fuel.

(a) Road Tax. -- The Secretary of Revenue may notify the ~~Commissioner~~ Division of those motor vehicles that are registered or are required to be registered under Article 36B of Chapter 105 and whose owners or lessees, as appropriate, are not in compliance with Article 36B, 36C, or 36D of Chapter 105. When

1 notified, the ~~Commissioner~~ Division shall withhold or revoke the
2 registration plate for the vehicle.

3 (b) Non-tax-paid Fuel. -- The Secretary of Revenue may notify
4 the ~~Commissioner~~ Division of those motor vehicles for which a
5 civil penalty imposed under G.S. 105-449.118 has not been paid.
6 When notified, the ~~Commissioner~~ Division shall withhold or revoke
7 the registration plate of the vehicle."

8 Sec. 12. G.S. 20-279.21(b)(3)b. reads as rewritten:

9 "b. Where the insured, under the uninsured
10 motorist coverage, claims that he has
11 sustained bodily injury as the result of
12 collision between motor vehicles and asserts
13 that the identity of the operator or owner of
14 a vehicle (other than a vehicle in which the
15 insured is a passenger) cannot be ascertained,
16 the insured may institute an action directly
17 against the insurer: Provided, in that event,
18 the insured, or someone in his behalf, shall
19 report the accident within 24 hours or as soon
20 thereafter as may be practicable, to a police
21 officer, peace officer, other judicial
22 officer, or to the ~~Commissioner of Motor~~
23 ~~Vehicles~~ Division. The insured shall also
24 within a reasonable time give notice to the
25 insurer of his injury, the extent thereof, and
26 shall set forth in the notice the time, date
27 and place of the injury. Thereafter, on forms
28 to be mailed by the insurer within 15 days
29 following receipt of the notice of the
30 accident to the insurer, the insured shall
31 furnish to insurer any further reasonable
32 information concerning the accident and the
33 injury that the insurer requests. If the forms
34 are not furnished within 15 days, the insured
35 is deemed to have complied with the
36 requirements for furnishing information to the
37 insurer. Suit may not be instituted against
38 the insurer in less than 60 days from the
39 posting of the first notice of the injury or
40 accident to the insurer at the address shown
41 on the policy or after personal delivery of
42 the notice to the insurer or its agent. The
43 failure to post notice to the insurer 60 days
44 before the initiation of the suit shall not be

grounds for dismissal of the action, but shall automatically extend the time for filing of an answer or other pleadings to 60 days after the time of service of the summons, complaint, or other process on the insurer."

Sec. 13. G.S. 20-282 reads as rewritten:

"§ 20-282. Cooperation in enforcement of Article.

The provisions of this Article shall be enforced by the ~~Commissioner of Motor Vehicles~~ Division in cooperation with the Commissioner of Insurance, the North Carolina Automobile Rate Administrative Office and with all law-enforcement officers and agents and other agencies of the State and the political subdivisions thereof."

Sec. 14. G.S. 20-309 reads as rewritten:

"§ 20-309. Financial responsibility prerequisite to registration; must be maintained throughout registration period.

(a) No self-propelled motor vehicle shall be registered in this State unless the owner at the time of registration has financial responsibility for the operation of such motor vehicle, as provided in this Article. The owner of each motor vehicle registered in this State shall maintain financial responsibility continuously throughout the period of registration.

(b) Financial responsibility shall be a liability insurance policy or a financial security bond or a financial security deposit or by qualification as a self-insurer, as these terms are defined and described in Article 9A, Chapter 20 of the General Statutes of North Carolina, as amended.

(c) When it is certified that financial responsibility is a liability insurance policy, the ~~Commissioner of Motor Vehicles~~ Division may require ~~that~~ the owner to produce records to prove the fact of ~~such~~ insurance, and failure to produce such records shall be prima facie evidence that no financial responsibility exists with regard to the vehicle concerned. It shall be the duty of insurance companies, upon request of the Division, to verify the accuracy of any owner's certification.

(d) When liability insurance with regard to any motor vehicle is terminated by cancellation or failure to renew, or the owner's financial responsibility for the operation of any motor vehicle is otherwise terminated, the owner shall forthwith surrender the registration certificate and plates of the vehicle to the ~~Division of Motor Vehicles~~ unless financial responsibility is maintained in some other manner in compliance with this Article.

(e) Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the

1 insurer shall notify the Division of such termination; provided,
2 no cancellation notice is required if the insurer issues a new
3 insurance policy complying with this Article at the same time the
4 insurer cancels or otherwise terminates the old policy, no lapse
5 in coverage results, and the insurer sends the certificate of
6 insurance form for the new policy to the Division. The Division,
7 upon receiving notice of cancellation or termination of an
8 owner's financial responsibility as required by this Article,
9 shall notify such owner of such cancellation or termination, and
10 such owner shall, to retain the registration plate for the
11 vehicle registered or required to be registered, within 10 days
12 from date of notice given by the Division either:

- 13 (1) Certify to the Division that he had financial
14 responsibility effective on or prior to the date of
15 such termination; or
- 16 (2) In the case of a lapse in financial responsibility,
17 pay a fifty dollar (\$50.00) civil penalty; and
18 certify to the Division that he now has financial
19 responsibility effective on the date of
20 certification, that he did not operate the vehicle
21 in question during the period of no financial
22 responsibility with the knowledge that there was no
23 financial responsibility, and that the vehicle in
24 question was not involved in a motor vehicle
25 accident during the period of no financial
26 responsibility.

27 Failure of the owner to certify that he has financial
28 responsibility as herein required shall be prima facie evidence
29 that no financial responsibility exists with regard to the
30 vehicle concerned and unless the owner's registration plate has
31 on or prior to the date of termination of insurance been
32 surrendered to a representative of the Division by surrender to
33 ~~an agent or representative of the Division designated by the~~
34 ~~Commissioner, or depositing the same or deposited~~ in the United
35 States mail, addressed to the Division of Motor Vehicles,
36 Raleigh, North Carolina, the Division shall revoke the vehicle's
37 registration for 30 days.

38 In no case shall any vehicle, the registration of which has
39 been revoked for failure to have financial responsibility, be
40 reregistered in the name of the registered owner, spouse, or any
41 child of the spouse, or any child of such owner within less than
42 30 days after the date of receipt of the registration plate by
43 the Division of Motor Vehicles, except that a spouse living
44 separate and apart from the registered owner may register such

1 vehicle immediately in such spouse's name. Additionally, as a
2 condition precedent to the reregistration of the vehicle by the
3 registered owner, spouse, or any child of the spouse, or any
4 child of such owner, except a spouse living separate and apart
5 from the registered owner, the payment of a restoration fee of
6 fifty dollars (\$50.00) and the appropriate fee for a new
7 registration plate is required. Any person, firm or corporation
8 failing to give notice of termination shall be subject to a civil
9 penalty of two hundred dollars (\$200.00) to be assessed by the
10 Commissioner of Insurance upon a finding by the Commissioner of
11 Insurance that good cause is not shown for such failure to give
12 notice of termination to the Division.

13 (f) ~~The Commissioner shall administer and enforce the~~
14 ~~provisions of this Article and may make rules and regulations~~
15 ~~necessary for its administration and Secretary shall provide for~~
16 ~~hearings upon request of persons aggrieved by orders or acts of~~
17 ~~the Commissioner Secretary under the provisions of this Article."~~

18 Sec. 15. G.S. 20-315 is repealed.

19 Sec. 16. G.S. 20-320(2) is repealed.

20 Sec. 17. G.S. 1-105 reads as rewritten:

21 "§ 1-105. Service upon nonresident drivers of motor vehicles and
22 upon the personal representatives of deceased nonresident drivers
23 of motor vehicles.

24 The acceptance by a nonresident of the rights and privileges
25 conferred by the laws now or hereafter in force in this State
26 permitting the operation of motor vehicles, as evidenced by the
27 operation of a motor vehicle by such nonresident on the public
28 highways of this State, or at any other place in this State, or
29 the operation by such nonresident of a motor vehicle on the
30 public highways of this State or at any other place in this
31 State, other than as so permitted or regulated, shall be deemed
32 equivalent to the appointment by such nonresident of the
33 ~~Commissioner of Motor Vehicles, Secretary of the Department of~~
34 Transportation, or his successor in office, to be his true and
35 lawful attorney and the attorney of his executor or
36 administrator, upon whom may be served all summonses or other
37 lawful process in any action or proceeding against him or his
38 executor or administrator, growing out of any accident or
39 collision in which said nonresident may be involved by reason of
40 the operation by him, for him, or under his control or direction,
41 express or implied, of a motor vehicle on such public highways of
42 this State, or at any other place in this State, and said
43 acceptance or operation shall be a signification of his agreement
44 that any such process against him or his executor or

1 administrator shall be of the same legal force and validity as if
2 served on him personally, or on his executor or administrator.

3 Service of such process shall be made in the following manner:

4 (1) By leaving a copy thereof, with a fee of ten
5 dollars (\$10.00), in the hands of the ~~Commissioner~~
6 ~~of Motor Vehicles, Secretary of the Department of~~
7 ~~Transportation, or in his office.~~ Such service,
8 upon compliance with the other provisions of this
9 section, shall be sufficient service upon the said
10 nonresident.

11 (2) Notice of such service of process and copy thereof
12 must be forthwith sent by certified or registered
13 mail by plaintiff or the ~~Commissioner of Motor~~
14 ~~Vehicles Secretary of the Department of~~
15 ~~Transportation~~ to the defendant, and the entries on
16 the defendant's return receipt shall be sufficient
17 evidence of the date on which notice of service
18 upon the ~~Commissioner of Motor Vehicles Secretary~~
19 ~~of the Department of Transportation~~ and copy of
20 process were delivered to the defendant, on which
21 date service on said defendant shall be deemed
22 completed. If the defendant refuses to accept the
23 certified or registered letter, service on the
24 defendant shall be deemed completed on the date of
25 such refusal to accept as determined by notations
26 by the postal authorities on the original envelope,
27 and if such date cannot be so determined, then
28 service shall be deemed completed on the date that
29 the certified or registered letter is returned to
30 the plaintiff or ~~Commissioner of Motor Vehicles,~~
31 ~~Secretary of the Department of Transportation,~~ as
32 determined by postal marks on the original
33 envelope. If the certified or registered letter is
34 not delivered to the defendant because it is
35 unclaimed, or because he has removed himself from
36 his last known address and has left no forwarding
37 address or is unknown at his last known address,
38 service on the defendant shall be deemed completed
39 on the date that the certified or registered letter
40 is returned to the plaintiff or ~~Commissioner of~~
41 ~~Motor Vehicles, Secretary of the Department of~~
42 ~~Transportation.~~

43 (3) The defendant's return receipt, or the original
44 envelope bearing a notation by the postal

authorities that receipt was refused, and an affidavit by the plaintiff that notice of mailing the registered letter and refusal to accept was forthwith sent to the defendant by ordinary mail, together with the plaintiff's affidavit of compliance with the provisions of this section, must be appended to the summons or other process and filed with said summons, complaint and other papers in the cause.

Provided, that where the nonresident motorist has died prior to the commencement of an action brought pursuant to this section, service of process shall be made on the executor or administrator of such nonresident motorist in the same manner and on the same notice as is provided in the case of a nonresident motorist.

The court in which the action is pending shall order such continuance as may be necessary to afford the defendant reasonable opportunity to defend the action."

Sec. 18. G.S. 8-37 reads as rewritten:

"§ 8-37. Certificate of ~~Commissioner~~ Division of Motor Vehicles as to ownership of automobile.

In any civil or criminal action in which the ownership of a motor vehicle is relevant, evidence as to the letters and numbers appearing upon the registration plate attached to such vehicle or of the motor vehicle identification number, together with certified copies of records furnished pursuant to G.S. 20-42 by the ~~Commissioner~~ Division of Motor Vehicles showing the name of the owner of the vehicle to which such registration plate or vehicle identification number is assigned, or a certified copy of the certificate of title for such motor vehicle on file with the ~~Commissioner~~ Division of Motor Vehicles, is prima facie evidence of the ownership of such motor vehicle."

Sec. 19. G.S. 44A-4(c) reads as rewritten:

"(c) Private Sale. -- Sale by private sale may be made in any manner that is commercially reasonable. If the property upon which the lien is claimed is a motor vehicle, the sale may not be made until notice is given to the ~~Commissioner~~ Division of Motor Vehicles pursuant to G.S. 20-114(c). Not less than 30 days prior to the date of the proposed private sale, the lienor shall cause notice to be mailed, as provided in subsection (f) hereof, to the person having legal title to the property, if reasonably ascertainable, to the person with whom the lienor dealt if different, and to each secured party or other person claiming an interest in the property who is actually known to the lienor or can be reasonably ascertained. Notices provided pursuant to

1 subsection (b) hereof shall be sufficient for these purposes if
2 such notices contain the information required by subsection (f)
3 hereof. The lienor shall not purchase, directly or indirectly,
4 the property at private sale and such a sale to the lienor shall
5 be voidable."

6 Sec. 20. G.S. 44A-4(e) reads as rewritten:

7 "(e) Public Sale. --

8 (1) Not less than 20 days prior to sale by public sale
9 the lienor:

10 a. Shall notify the ~~Commissioner~~ Division of
11 Motor Vehicles as provided in G.S. 20-114(c)
12 if the property upon which the lien is claimed
13 is a motor vehicle; and

14 a1. Shall cause notice to be mailed to the person
15 having legal title to the property if
16 reasonably ascertainable, to the person with
17 whom the lienor dealt if different, and to
18 each secured party or other person claiming an
19 interest in the property who is actually known
20 to the lienor or can be reasonably
21 ascertained, provided that notices provided
22 pursuant to subsection (b) hereof shall be
23 sufficient for these purposes if such notices
24 contain the information required by subsection
25 (f) hereof; and

26 b. Shall advertise the sale by posting a copy of
27 the notice of sale at the courthouse door in
28 the county where the sale is to be held;

29 and shall publish notice of sale once a week for
30 two consecutive weeks in a newspaper of general
31 circulation in the same county, the date of the
32 last publication being not less than five days
33 prior to the sale. The notice of sale need not be
34 published if the vehicle has a market value of less
35 than three thousand five hundred dollars (\$3,500),
36 as determined by the schedule of values adopted by
37 the ~~Commissioner~~ Division of Motor Vehicles under
38 G.S. 105-187.3.

39 (2) A public sale must be held on a day other than
40 Sunday and between the hours of 10:00 A.M. and 4:00
41 P.M.:

42 a. In any county where any part of the contract
43 giving rise to the lien was performed, or

b. In the county where the obligation secured by the lien was contracted for.

(3) A lienor may purchase at public sale."

Sec. 21. G.S. 66-58(b)(15) reads as rewritten:

"(15) The State Department of Correction is authorized to purchase and install automobile license tag plant equipment for the purpose of manufacturing license tags for the State and local governments and for such other purposes as the Department may direct.

The ~~Commissioner~~ Division of Motor Vehicles, ~~or such other authority as may exercise~~ Vehicles and any other entity that exercises the authority to purchase automobile license tags is hereby directed to purchase from, and to contract with, the State Department of Correction for the State automobile license tag requirements from year to year.

The price to be paid to the State Department of Correction for such tags shall be fixed and agreed upon by the Governor, the State Department of Correction, and the ~~Motor Vehicle Commissioner, or such authority as may be authorized to purchase such supplies,~~ agency purchasing the tags."

Sec. 22. G.S. 105-187.1 reads as rewritten:

"§ 105-187.1. Definitions.

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

(1) ~~"Commissioner" means the Commissioner of Motor Vehicles.~~

(2) ~~"Division" means the Division.~~ -- The Division of Motor Vehicles, Department of Transportation.

(3) ~~"Long-term Long-term lease or rental" means a rental.~~ -- A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.

(4) ~~"Short-term Short-term lease or rental" means a rental.~~ -- A lease or rental that is not a long-term lease or rental."

Sec. 23. G.S. 105-187.3 reads as rewritten:

"§ 105-187.3. Rate of tax.

(a) Amount. -- The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as

1 provided in G.S. 105-187.4. The tax may not be more than one
2 thousand dollars (\$1,000) for each certificate of title issued
3 for a Class A or Class B motor vehicle that is a commercial motor
4 vehicle, as defined in G.S. 20-4.01. The tax may not be more than
5 one thousand five hundred dollars (\$1,500) for each certificate
6 of title issued for any other motor vehicle.

7 (b) Retail Value. -- The retail value of a motor vehicle for
8 which a certificate of title is issued because of a sale of the
9 motor vehicle by a retailer is the sales price of the motor
10 vehicle, including all accessories attached to the vehicle when
11 it is delivered to the purchaser, less the amount of any
12 allowance given by the retailer for a motor vehicle taken in
13 trade as a full or partial payment for the purchased motor
14 vehicle. The retail value of a motor vehicle for which a
15 certificate of title is issued because of a sale of the motor
16 vehicle by a seller who is not a retailer is the market value of
17 the vehicle, less the amount of any allowance given by the seller
18 for a motor vehicle taken in trade as a full or partial payment
19 for the purchased motor vehicle. A transaction in which two
20 parties exchange motor vehicles is considered a sale regardless
21 of whether either party gives additional consideration as part of
22 the transaction. The retail value of a motor vehicle for which a
23 certificate of title is issued because of a reason other than the
24 sale of the motor vehicle is the market value of the vehicle. The
25 market value of a vehicle is presumed to be the value of the
26 vehicle set in a schedule of values adopted by the ~~Commissioner~~
27 Secretary of the Department of Transportation.

28 (c) Schedules. -- In adopting a schedule of values for motor
29 vehicles, the ~~Commissioner~~ Secretary of the Department of
30 Transportation shall adopt a schedule whose values do not exceed
31 the wholesale values of motor vehicles as published in a
32 recognized automotive reference manual."

33 Sec. 24. G.S. 105-187.4 reads as rewritten:

34 "\$ 105-187.4. Payment of tax.

35 (a) Method. -- The tax imposed by this Article must be paid to
36 the ~~Commissioner~~ Division when applying for a certificate of
37 title for a motor vehicle. The ~~Commissioner~~ Division may not
38 issue a certificate of title for a vehicle until the tax imposed
39 by this Article has been paid. The tax may be paid in cash or by
40 check.

41 (b) Sale by Retailer. -- When a certificate of title for a
42 motor vehicle is issued because of a sale of the motor vehicle by
43 a retailer, the applicant for the certificate of title must
44 attach a copy of the bill of sale for the motor vehicle to the

1 application. A retailer who sells a motor vehicle may collect
2 from the purchaser of the vehicle the tax payable upon the
3 issuance of a certificate of title for the vehicle, apply for a
4 certificate of title on behalf of the purchaser, and remit the
5 tax due on behalf of the purchaser. If a check submitted by a
6 retailer in payment of taxes collected under this section is not
7 honored by the financial institution upon which it is drawn
8 because the retailer's account did not have sufficient funds to
9 pay the check or the retailer did not have an account at the
10 institution, the Division may suspend or revoke the license
11 issued to the retailer under Article 12 of Chapter 20 of the
12 General Statutes."

13 Sec. 25. G.S. 105-187.8 reads as rewritten:

14 "\$ 105-187.8. Refund for return of purchased motor vehicle.

15 When a purchaser of a motor vehicle returns the motor vehicle
16 to the seller of the motor vehicle within 90 days after the
17 purchase and receives a vehicle replacement for the returned
18 vehicle or a refund of the price paid the seller, whether from
19 the seller or the manufacturer of the vehicle, the purchaser may
20 obtain a refund of the privilege tax paid on the certificate of
21 title issued for the returned motor vehicle.

22 To obtain a refund, the purchaser must apply to the Division
23 for a refund within 30 days after receiving the replacement
24 vehicle or refund of the purchase price. The application must be
25 made on a form prescribed by the Commission Division and must be
26 supported by documentation from the seller of the returned
27 vehicle."

28 Sec. 26. G.S. 105-187.10 reads as rewritten:

29 "\$ 105-187.10. Penalties and remedies.

30 (a) Penalties. -- The penalty for bad checks in G.S. 105-
31 236(1) applies to a check offered in payment of the tax imposed
32 by this Article. In addition, if a check offered to the Division
33 in payment of the tax imposed by this Article is returned unpaid
34 and the tax for which the check was offered, plus the penalty
35 imposed under G.S. 105-236(1), is not paid within 30 days after
36 the Commissioner Division demands its payment, the Commissioner
37 Division may revoke the registration plate of the vehicle for
38 which a certificate of title was issued when the check was
39 offered.

40 (b) Unpaid Taxes. -- The remedies for collection of taxes in
41 G.S. 20-99 apply to the taxes levied by this Article and
42 collected by the Commissioner, Division.

43 (c) Appeals. -- A taxpayer who disagrees with the presumed
44 value of a motor vehicle must pay the tax based on the presumed

1 value, but may appeal the value to the ~~Commissioner~~ Secretary of
2 the Department of Transportation. A taxpayer who appeals the
3 value must provide two estimates of the value of the ~~vehicle to~~
4 ~~the Commissioner~~ vehicle. If the ~~Commissioner~~ Secretary of the
5 Department of Transportation finds that the value of the vehicle
6 is less than the presumed value of the vehicle, the ~~Commissioner~~
7 Division shall refund any overpayment of tax made by the taxpayer
8 with interest at the rate specified in G.S. 105-241.1 from the
9 date of the overpayment."

10 Sec. 27. G.S. 105-449.54 reads as rewritten:

11 "~~\$ 105-449.54. Commissioner of Motor Vehicles~~ Secretary of
12 Department of Transportation made process agent of nonresident
13 motor carriers.

14 The acceptance by a nonresident motor carrier of the rights
15 and privileges conferred by the laws now or hereafter in force in
16 this State permitting the operation of motor vehicles, as
17 evidenced by the operation of a motor vehicle by such
18 nonresident, either personally or through an agent or employee,
19 on the public highways of this State, or the operation by such
20 nonresident, either personally or through an agent or employee,
21 of a motor vehicle on the public highways of this State other
22 than as so permitted or regulated, shall be deemed equivalent to
23 the appointment by such nonresident motor carrier of the
24 ~~Commissioner of Motor Vehicles~~ Secretary of the Department of
25 Transportation, or his successor in office, to be his true and
26 lawful attorney and the attorney of his executor or
27 administrator, upon whom may be served all summonses or other
28 lawful process or notice in any action, assessment proceeding or
29 other proceeding against him or his executor or administrator,
30 arising out of or by reason of any provisions of this Article
31 relating to such vehicle or relating to the liability for tax
32 with respect to operation of such vehicle on the highways of this
33 State. Said acceptance or operation shall be a signification by
34 such nonresident motor carrier of his agreement that any such
35 process against or notice to him or his executor or administrator
36 shall be of the same legal force and validity as if served on him
37 personally, or on his executor or administrator. All of the
38 provisions of G.S. 1-105 following the first paragraph thereof
39 shall be applicable with respect to the service of process or
40 notice pursuant to this section."

41 Sec. 28. G.S. 110-91(a)(13) reads as rewritten:

42 "(13) Transportation. -- All child day care
43 facilities shall abide by North Carolina law
44 regulating the use of seat belts and child

passenger restraint devices. All vehicles operated by any facility staff person or volunteer to transport children shall be properly equipped with appropriate seat belts or child restraint devices as approved by the ~~Commissioner of Motor Vehicles~~ Secretary of the Department of Transportation. Each adult and child shall be restrained by an appropriate seat safety belt or restraint device when the vehicle is in motion. These restraint regulations do not apply to vehicles not required by federal law to be equipped with seat restraints. All vehicles used to transport children shall meet and maintain the safety inspection standards of the Division of Motor Vehicles of the Department of Transportation and the facility shall comply with all other applicable State and federal laws and regulations concerning the operation of a motor vehicle. Children may never be left unattended in a vehicle.

The ratio of adults to children in child day care vehicles may not be less than the staff/child ratios prescribed by G.S. 110-91(7). The Commission shall adopt standards for transporting children under the age of two, including standards addressing this particular age's staff/child ratio during transportation."

Sec. 29. G.S. 143-166.13(a)(13) reads as rewritten:

"(13) Members of License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation, designated by the ~~Commissioner of Motor Vehicles~~ Secretary of the Department of Transportation as either 'inspectors' or uniformed weigh station personnel;".

Sec. 30. G.S. 147-33.2(8) reads as rewritten:

"(8) At any time when the General Assembly is not in session, suspend, or modify, in whole or in part, generally or in its application to certain classes of persons, firms, corporations or circumstances, any law, rule or regulation with reference to the subjects hereinafter enumerated, when he shall find and proclaim after such study, investigation or

1 hearings as he may direct, make or conduct, that
2 the operation, enforcement or application of such
3 law, or any part thereof, materially hinders,
4 impedes, delays or interferes with the proper
5 conduct of the war; said subjects being as follows:

6 a. The use of the roads, streets, and highways of
7 the State, with particular reference to speed
8 limits, weights and sizes of motor vehicles,
9 regulations of automobile lights and signals,
10 transportation of munitions or explosives and
11 parking or assembling of automobiles on
12 highways or any other public place within the
13 State; provided that any changes in the laws
14 referred to in this subdivision shall be first
15 approved by the Board of ~~Transportation and~~
16 ~~the Commissioner of Motor Vehicles of the~~
17 State; Transportation;

18 b. Public health, insofar as suspension or
19 modification of the laws in reference thereto
20 may be stipulated by the United States Public
21 Health Service or other authoritative agency
22 of the United States government as being
23 essential in the interest of national safety
24 and in the successful prosecution of the war
25 effort; provided that such suspension or
26 modification of public health laws shall first
27 be submitted to and approved by the Commission
28 for Health Services;

29 c. Labor and industry; provided, however, that
30 any suspension or modification of laws
31 regulating labor and industry shall be only
32 such as are certified by the Commissioner of
33 Labor of the State as being necessary in the
34 interest of national safety and in the
35 furtherance of the war program; and provided
36 further that any such changes as may result in
37 an increase in the hours of employment over
38 and above the limits of the existing statutory
39 provisions shall carry provision for adequate
40 additional compensation; and provided,
41 further, that no changes in such laws or
42 regulations shall be made as affecting
43 existing contracts between labor and

- 1 management in this State except with the
2 approval of the contracting parties;
3 d. Whenever it should be certified by the
4 Adjutant General of the State that emergency
5 conditions require such procedure, the
6 Governor, with the approval of the Council of
7 State, shall have the power to call up and
8 mobilize State militia in addition to the
9 existing units of the State guard; to provide
10 transportation and facilities for mobilization
11 and full utilization of the State guard, or
12 other units of militia, in such emergency; and
13 to allocate from the Contingency and Emergency
14 Fund such amounts as may be necessary for such
15 purposes during the period of such emergency;
16 e. Manufacture, sale, transportation, possession
17 and use of explosives or fireworks, or
18 articles in simulation thereof, and the sale,
19 use and handling of firearms;".

20 Sec. 31. This act is effective when it becomes law.
21

Explanation of Proposal

This proposal implements a recommendation of the performance audit of the Division of Motor Vehicles that was conducted by MGT of America, Inc. The proposal deletes the position of Commissioner of Motor Vehicles and makes the Secretary of Transportation responsible for the Division of Motor Vehicles. The proposal gives the Secretary the discretion to appoint a Deputy Secretary of the Department of Transportation to be in charge of the Division. The bill is long because it changes many references to the Commissioner.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 6

97-LJX-007(1.3)

(THIS IS A DRAFT AND NOT READY FOR INTRODUCTION)

Short Title: Modify Emissions Inspection Laws.

(Public)

Sponsors: Transportation Oversight.

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO MODIFY THE PENALTY SCHEDULE FOR VIOLATIONS OF THE
3 VEHICLE EMISSION INSPECTION PROGRAM, TO CLARIFY THE PROCEDURE
4 FOR IMPOSING THE PENALTIES, AND TO MAKE OTHER CHANGES TO THE
5 VEHICLE EMISSION INSPECTION LAWS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 20-183.4(b) reads as rewritten:

8 "(b) Station Qualifications. -- An applicant for a license as
9 a safety inspection station must meet all of the following
10 requirements:

- 11 (1) Have a place of business that has adequate
12 facilities, space, and equipment to conduct a
13 safety inspection.
14 (2) Regularly employ at least one mechanic who has a
15 safety inspection mechanic license.
16 (3) Designate the individual who will be responsible
17 for the day-to-day operation of the station. The
18 individual designated must be of good character and
19 have a reputation for honesty."

This section adds a requirement for obtaining a safety inspection station license and an emissions inspection station license. The new requirement is the designation of the person who will be in charge of the station. That person must be of

good character and have a reputation for honesty. Under current law, an inspection mechanic must be of good character and have a reputation for honesty. The addition is made to the statute that applies to safety inspection stations. The new requirement will apply to emissions inspection stations as well because an emissions inspection station must meet all of the requirements of a safety inspection station plus additional requirements.

Section 2. G.S. 20-183.4C reads as rewritten:

"§ 20-183.4C. When a vehicle must be ~~inspected~~, inspected; one-way trip permit.

(a) Inspection. -- A vehicle that is subject to a safety inspection, an emissions inspection, or both must be inspected as follows:

- (1) A new vehicle must be inspected before it is ~~offered for sale~~ sold at retail in this State.
- (2) A used vehicle must be inspected before it is offered for sale at retail in this State by a dealer at a location other than a public auction.
- (3) A used vehicle that is offered for sale at retail in this State by a dealer at a public auction must be inspected before it is offered for sale unless it has an inspection sticker that was put on the vehicle under this Part and does not expire until at least nine months after the date the vehicle is offered for sale at auction.
- (4) A used vehicle acquired by a resident of this State from a person outside the State must be inspected within 10 days after the vehicle is registered with the Division.
- (5) A vehicle owned by a new resident of this State who transfers the registration of the vehicle from the resident's former home state to this State must be inspected within 10 days after the vehicle is registered with the Division.
- (6) A vehicle that has been inspected in accordance with this Part must be inspected by the last day of the month in which the inspection sticker on the vehicle expires, unless another subdivision of this section requires it to be inspected sooner.

(b) Permit. -- The Division may issue a one-way trip permit to a person that authorizes the person to drive to an inspection station a vehicle whose inspection sticker has expired. The permit must describe the vehicle whose inspection sticker has

1 expired. The permit authorizes the person to drive the described
2 vehicle only from the place the vehicle is parked to an
3 inspection station."

This section makes two changes in the current law. First, it deletes the requirement that a new vehicle be inspected before it is offered for sale and substitutes a requirement that the new vehicle be inspected before it is sold. This change applies to both safety and emissions inspections. The change eliminates the problem dealers have of putting a sticker on a car that does not sell for several months and then, at the request of the buyer, having to do another inspection and put a more current sticker on the car. Before 1995, dealers could put a substitute safety inspection form on a separate piece of paper and then put a sticker on when the vehicle was sold. This change eliminates the need for an inspection until the vehicle is sold and does not revive the former substitute form.

Second, the section restores the one-way trip permit for use in taking a vehicle with an expired inspection sticker to a station for inspection. Current law provides a defense to a charge of a violation in this circumstance. The change is made as a result of a determination that it is better public policy to provide a way for a person to comply with the law in this circumstance by obtaining the permit rather than to tell the person to take a chance on not being caught and allowing them a defense that must be proven if they are caught. The permit was deleted to reduce the administrative burden on the Division.

4
5 Section 3. G.S. 20-183.4D(c) reads as rewritten:

6 "(c) Content of Sticker. -- An inspection sticker issued for a
7 vehicle that is subject to a safety inspection only must be a
8 different color from an inspection sticker issued for a vehicle
9 that is subject to both a safety and an emissions inspection. An
10 inspection sticker must indicate when it expires, must be printed
11 with a unique serial number and an official program seal, and
12 must be counterfeit resistant. The side of an inspection sticker
13 that is readable from the interior of a vehicle must contain the
14 following information:

- 15 (1) The date the inspection was performed.
16 (2) The odometer reading when the inspection was
17 performed.
18 (3) The signature, initials, or other identification of
19 the mechanic who performed the inspection and put
20 the sticker on the windshield.
21 (4) The vehicle identification number of the vehicle.

This section requires an inspection sticker to contain the VIN of the vehicle to which the sticker is attached. This change is made at the request of the Division.

Section 4. G.S. 20-183.6 reads as rewritten:

"§ 20-183.6. Businesses that replace windshields must register with Division to get inspection stickers.

A person who is engaged in the business of replacing windshields on vehicles that are subject to inspection under this Part may register with the Division to obtain replacement inspection stickers for use on replaced windshields. A replacement inspection sticker put on a windshield that has been replaced must contain the same information and expire at the same time as the inspection sticker it replaces. A person who puts a replacement inspection sticker on a replaced windshield must remove the inspection sticker from the windshield that was replaced replaced, attach the removed inspection sticker to the person's copy of the receipt given for replacing the windshield, and keep the copy of the receipt containing the removed inspection sticker until 30 days 18 months after it expires, the sticker was removed.

A person registered under this section must keep records of replacement stickers put on replaced windshields and must be able to account for all inspection stickers received from the Division. The Division may suspend or revoke the registration of a person under this section if the person fails to keep records required by the Division or is unable to account for inspection stickers received from the Division. An auditor of the Division may review the records of a person registered under this section during normal business hours.

A person who is registered under this section and has a safety inspection station license or an emissions inspection station license must keep the records of the inspection stickers used on replaced windshields separate from the records of the inspection stickers used on vehicles inspected. A person who is registered under this section and has an inspection station license may not inspect a vehicle whose windshield is being replaced unless the inspection sticker on the windshield has expired or expires at the end of the month in which the windshield is being replaced and the person has the vehicle owner's permission to inspect the vehicle."

Section 5. G.S. 20-183.8 reads as rewritten:

"§ 20-183.8. Infractions and criminal offenses for violations of inspection requirements.

1 "(a) Infractions. -- A person who does any of the following
2 commits an infraction and, if found responsible, is liable for a
3 penalty of up to fifty dollars (\$50.00):

- 4 (1) Operates a motor vehicle that is subject to
5 inspection under this Part on a highway or public
6 vehicular area in the State when the vehicle has
7 not been inspected in accordance with this Part, as
8 evidenced by the vehicle's lack of a current
9 inspection sticker or otherwise.
- 10 (2) Allows an inspection sticker to be put on a vehicle
11 owned or operated by that person, knowing that the
12 vehicle was not inspected before the sticker was
13 attached or was not inspected properly.
- 14 (3) ~~Attaches~~ Puts an inspection sticker ~~to~~ on a
15 vehicle, knowing or having reasonable grounds to
16 know an inspection of the vehicle was not performed
17 or was performed improperly. A person who is cited
18 for a civil penalty under G.S. 20-183.8B for an
19 emissions violation involving the inspection of a
20 vehicle may not be charged with an infraction under
21 this subdivision based on that same vehicle."

22 (b) Defenses to Infractions. -- Any of the following is a
23 defense to a violation under subsection (a) of this section:

- 24 (1) The vehicle was continuously out of State for at
25 least the 30 days preceding the date the inspection
26 sticker expired and a current inspection sticker
27 was obtained within 10 days after the vehicle came
28 back to the State.
- 29 (2) The vehicle displays a dealer license plate or a
30 transporter plate, the dealer repossessed the
31 vehicle or otherwise acquired the vehicle within
32 the last 10 days, and the vehicle is being driven
33 from its place of acquisition to the dealer's place
34 of business or to an inspection station.
- 35 ~~(3) The vehicle was in a state of disrepair on the date~~
36 ~~the inspection sticker expired, the owner has since~~
37 ~~repaired the vehicle, the vehicle is being driven~~
38 ~~from the owner's residence or other place where the~~
39 ~~owner repaired the vehicle to an inspection~~
40 ~~station, and the owner has not otherwise driven the~~
41 ~~vehicle since the inspection sticker expired.~~
- 42 (4) The charged infraction is described in subdivision
43 (a)(1) of this section, the vehicle is subject to a
44 safety-only inspection, and the vehicle owner

1 establishes in court that the vehicle was inspected
2 after the citation was issued and within 30 days of
3 the expiration date of the inspection sticker that
4 was on the vehicle when the citation was issued.

5 (c) Felony. -- A person who ~~forges an inspection sticker~~
6 ~~commits a Class I felony.~~ does any of the following commits a
7 Class I felony:

8 (1) Forges an inspection sticker.

9 (2) Buys, sells, or possesses a forged inspection
10 sticker.

11 (3) Buys, sells, or possesses an inspection sticker
12 other than as the result of a vehicle inspection in
13 which the vehicle passed the inspection or for
14 which the vehicle received a waiver."

This section makes three changes. First, it prevents an emissions inspection station or an emissions mechanic from being subject to both civil penalties and an infraction for the same errors in performing emissions inspections of vehicles. It does this by precluding the application of the infraction. The civil penalties are harsher than the infraction. The infraction would continue to apply to safety inspections, as opposed to emissions inspections. Vehicles in 9 counties in the State are subject to emissions inspections, but vehicles in every county are subject to safety inspections.

Second, it deletes a defense that is no longer needed because of the addition of the one-way trip permit. Third, it adds additional felony offenses for buying, selling, or possessing forged or real inspection stickers.

15 Section 6. G.S. 20-183.8B reads as rewritten:

16 "§ 20-183.8B. Civil penalties against license holders and
17 suspension or revocation of license for emissions violations.

18 (a) Kinds of Violations. -- The civil penalty schedule
19 established in this section applies to emissions self-inspectors,
20 emissions inspection stations, and emissions inspection
21 mechanics. The schedule categorizes emissions violations into
22 serious (Type I), minor (Type II), and technical (Type III)
23 violations.

24 A serious violation is a violation of this Part or a rule
25 adopted to implement this Part that directly affects the emission
26 reduction benefits of the emissions inspection program. A minor
27 violation is a violation of this Part or a rule adopted to
28 implement this Part that reflects negligence or carelessness in
29 conducting an emissions inspection or complying with the
30 emissions inspection requirements but does not directly affect

1 the emission reduction benefits of the emissions inspection
2 program. A technical violation is a violation that is not a
3 serious violation, a minor violation, or another type of offense
4 under this Part.

5 (b) Penalty Schedule. -- The Division must take the following
6 action for a violation:

7 (1) Type I. -- For a first or second Type I violation
8 by an emissions self-inspector or an emissions
9 inspection station, assess a civil penalty of two
10 hundred fifty dollars (\$250.00) and suspend the
11 license of the business for six months. For a third
12 or subsequent Type I violation within ~~seven~~ three
13 years by an emissions self-inspector or an
14 emissions inspection station, assess a civil
15 penalty of one thousand dollars (\$1,000) and revoke
16 the license of the business for two years.

17 For a first or second Type I violation by an
18 emissions inspection mechanic, assess a civil
19 penalty of one hundred dollars (\$100.00) and
20 suspend the mechanic's license for six months. For
21 a third or subsequent Type I violation within seven
22 years by an emissions inspection mechanic, assess a
23 civil penalty of two hundred fifty dollars
24 (\$250.00) and revoke the mechanic's license for two
25 years.

26 (2) Type II. -- For a first or second Type II violation
27 by an emissions self-inspector or an emissions
28 inspection station, assess a civil penalty of one
29 hundred dollars (\$100.00). For a third or
30 subsequent Type II violation within ~~seven~~ three
31 years by an emissions self-inspector or an
32 emissions inspection station, assess a civil
33 penalty of two hundred fifty dollars (\$250.00) and
34 suspend the license of the business for 90 days.

35 For a first or second Type II violation by an
36 emissions inspection mechanic, assess a civil
37 penalty of fifty dollars (\$50.00). For a third or
38 subsequent Type II violation within seven years by
39 an emissions inspection mechanic, assess a civil
40 penalty of one hundred dollars (\$100.00) and
41 suspend the mechanic's license for 90 days.

42 (3) Type III. -- For a first or second Type III
43 violation by an emissions self-inspector, an
44 emissions inspection station, or an emissions

inspection mechanic, send a warning letter. For a third or subsequent Type III violation within ~~seven~~ three years by the same emissions license holder, assess a civil penalty of twenty-five dollars (\$25.00).

(c) Station or Self-Inspector Responsibility. -- It is the responsibility of an emissions inspection station and an emissions self-inspector to supervise the emissions mechanics it employs. A ~~Type I~~ violation by an emissions inspector mechanic is considered a ~~Type I~~ violation by the station or self-inspector for whom the mechanic is employed. ~~A Type II or III violation by an emissions mechanic is not automatically a Type II or III violation by the station or self-inspector for whom the mechanic is employed. The Division may determine which Type II or Type III violations by an emissions mechanic are also violations by the station or self-inspector.~~

(d) Missing Stickers. -- The Division must assess a civil penalty against an emissions inspection station or an emissions self-inspector that cannot account for an emissions inspection sticker issued to it. A station or a self-inspector cannot account for a sticker when the sticker is missing and the station or self-inspector cannot establish reasonable grounds for believing the sticker was stolen or destroyed by fire or another accident.

The amount of the penalty is twenty-five dollars (\$25.00) for each missing sticker. If a penalty is imposed under subsection (b) of this section as the result of missing stickers, the monetary penalty that applies is the higher of the penalties required under this subsection and subsection (b); the Division may not assess a monetary penalty as a result of missing stickers under both this subsection and subsection (b). Imposition of a monetary penalty under this subsection does not affect suspension or revocation of a license required under subsection (b)."

This section revises the length of time during which prior violations can be taken into account in determining the applicable penalty for an emissions violation. The period is reduced from 7 years to 3 years for emissions inspection stations and self-inspectors. The reason for the reduction is the frequency of inspections done by the Division of Motor Vehicles. Federal law requires the Division to conduct overt performance audits of stations twice per year for each test lane of the station and additional covert audits. Given this frequency, three years is a sufficient period to discern the stations whose

performance is below the required standard and therefore subject to a 2-year license revocation.

The section also reduces the period for mechanics for technical (Type III) violations. It reduces the period from 7 years to 3 years. It does this to avoid complicating the penalty schedule for Type III violations by creating a distinction between stations and mechanics. These violations involve the failure to comply with DMV recordkeeping or administrative requirements and should be as simple as possible.

The section also eliminates the direction to the Division to determine which Type II or III violations of a mechanic are to be attributable to the station. The Division has not exercised this authority. The failure of the Division to do this by rule makes the Division unable to effectively enforce Type II or III penalties against the stations.

Section 7. G.S. 20-183.8C reads as rewritten:

"§ 20-183.8C. Acts that are Type I, II, or III emissions violations.

(a) Type I. -- It is a Type I violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

(1) Put an emissions inspection sticker on a vehicle without performing an emissions inspection of the ~~vehicle or after performing an emissions inspection in which the vehicle did not pass the inspection-vehicle.~~

(1a) Put an emissions inspection sticker on a vehicle after performing an emissions inspection of the vehicle and determining that the vehicle did not pass the inspection.

(2) Use a test-defeating strategy when conducting an emissions inspection, such as holding the accelerator pedal down slightly during an idle test, disconnecting or crimping a vacuum hose to effect a passing result, or changing the emission standards for a vehicle by incorrectly entering the vehicle type or model year to achieve a passing result.

(3) Allow a person who is not licensed as an emissions inspection mechanic to perform an emissions inspection for a self-inspector or at an emissions station.

- (4) Sell or otherwise give an inspection sticker to another other than as the result of a vehicle inspection in which the vehicle passed the inspection or for which the vehicle received a waiver.
- (5) Be unable to account for five or more inspection stickers at any one time upon the request of an auditor of the Division.
- (6) Perform a safety-only inspection on a vehicle that is subject to both a safety and an emissions inspection.
- (7) Transfer an inspection sticker from one vehicle to another.

(b) Type II. -- It is a Type II violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Use the identification code of another to gain access to an emissions analyzer.
- (2) Keep inspection stickers and other compliance documents in a manner that makes them easily accessible to individuals who are not inspection mechanics.
- (3) Put an emissions inspection sticker on a vehicle that is required to have one of the following emissions control devices but does not have it:
 - a. Catalytic converter.
 - b. PCV valve.
 - c. Thermostatic air control.
 - d. Oxygen sensor.
 - e. Unleaded gas restrictor.
 - f. Gasoline tank cap.

- (4) Put an emissions inspection sticker on a vehicle that is required to have one of the following systems without checking the system to determine if it is in good working order:
 - a. Exhaust system.
 - b. Air injection system.
 - c. Evaporative emission system.

(c) Type III. -- It is a Type III violation for an emissions self-inspector, an emissions inspection station, or an emissions inspection mechanic to do any of the following:

- (1) Fail to post an emissions license issued by the Division.

- (2) Fail to send information on emissions inspections to the Division at the time or in the form required by the Division.
- (3) Fail to post emissions information required by federal law to be posted.
- (4) Charge an amount for performing an inspection that differs from the amount set in this Part.
- (5) Fail to put the required information on an inspection sticker in a legible manner using indelible ink.
- (6) Fail to put the required information on an inspection receipt in a legible manner.
- (7) Fail to maintain an emission analyzer calibration log.

(d) Other Acts. -- The lists in this section of the acts that are Type I, Type II, or Type III violations are not the only acts that are one of these types of violations. The Division may designate other acts that are a Type I, Type II, or Type III violation.

This section clarifies the penalty that applies when a vehicle that should not have passed emissions inspection receives a passing evaluation and, therefore, an emissions sticker, through negligence or oversight of the inspector. The current law has been interpreted to make the unintentional passes of below standard vehicles a Type I violation. This interpretation is contrary to the intent of the law, however. The section makes it clear that an unintentional pass of a below standard vehicle is a Type II rather than a Type I violation. The categorization of the violation is critical because a Type I violation carries an automatic license suspension but Type II does not.

Section 8. Article 3A of Chapter 20 of the General Statutes is amended by inserting a new statute between G.S.20-183.8C and 20-183.8D to read:

"§ 20-183.8C.1. Procedure for notifying a license holder of certain emission violations.

When an auditor of the Division finds that an emissions violation has occurred that could result in the loss of an emissions inspection station license, an emissions self-inspector license, or an emissions mechanic license, the auditor must give the affected license holders written notice of the finding. The notice must be given within five days after the violation occurred. The notice must state the monetary penalty that could apply to the violation as well as any period of suspension or revocation that could apply to the violation. The notice must

1 also inform the license holder of the right to a hearing if the
2 adverse action is imposed.

This section specifies the procedure for assessing a Type I penalty violation. These violations require suspension of a license. The effective date of a finding of violation therefore determines when a station must stop doing business.

3 Section 9. G.S. 20-183.8D reads as rewritten:

4 "\$ 20-183.8D. Suspension or revocation of license for safety
5 violations- license.

6 (a) Safety. -- The Division may suspend or revoke a safety
7 self-inspector license, a safety inspection station license, and
8 a safety inspection mechanic license issued under this Part if
9 the license holder fails to comply with this Part or a rule
10 adopted by the Commissioner to implement this Part.

11 (b) Emissions. -- The Division may suspend or revoke an
12 emissions self-inspector license, an emissions inspection station
13 license, and an emissions inspection mechanic license issued
14 under this Part for any of the following reasons:

15 (1) The suspension or revocation is imposed under G.S.
16 20-183.8B.

17 (2) Failure to pay a civil penalty imposed under G.S.
18 20-183.8B within 30 days after it is imposed."

This section makes failure to pay a civil penalty a grounds for revoking an emissions license. Current law does not address this.

19 Section 10. G.S. 20-99(e) reads as rewritten:

20 "(e) The provisions, procedures, and remedies provided in this
21 section ~~shall be applicable~~ apply to the collection of penalties
22 imposed under the provisions of Article 3A of this Chapter and of
23 G.S. 20-96, 20-118, or any other provisions of this Chapter
24 imposing a tax or penalty for operation of a vehicle in excess of
25 the weight limits provided in this Chapter and the Commissioner
26 is authorized to collect such taxes or penalties by the use of
27 the procedure established in subsections (a), (b), (c) and (d) of
28 this section."

29 Section 11. G.S. 20-183.8(c), as amended by Section 5 of
30 this act, becomes effective November 1, 1997, and applies to
31 offenses committed on or after that date. The remaining changes
32 made by Section 5 of this act and the other sections of this act
33 become effective July 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

Legislative Proposal 7

97-LJ-17

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: Ensure Uniform Emissions Fee.

(Public)

Sponsors: Transportation Oversight.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THAT THE FEE SET BY LAW FOR A VEHICLE EMISSIONS INSPECTION IS A UNIFORM, STATEWIDE FEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-183.7(a) reads as rewritten:

"(a) Fee Amount. -- When a fee applies to an inspection of a vehicle or the issuance of an inspection sticker, the fee must be collected. The following fees apply to an inspection of a vehicle and the issuance of an inspection sticker:

Type	Inspection	Sticker
Safety Only, Without After-		
Factory Tinted Window	\$ 8.25	\$ 1.00
Safety Only, With After-Factory		
Tinted Window	18.25	1.00
Emissions and Safety, Without		
After-Factory Tinted Window	17.00	2.40
Emissions and Safety, With		
After-Factory Tinted Window	27.00	2.40.

The fee for performing an inspection of a vehicle applies when an inspection is performed, regardless of whether the vehicle passes the inspection. The fee for an inspection sticker applies when an inspection sticker is put on a vehicle. The fee for performing an inspection of a vehicle with a tinted window

1 applies only to an inspection performed with a light meter after
2 a safety inspection mechanic determined that the window had
3 after-factory tint.

4 A vehicle that is inspected at an inspection station and fails
5 the inspection is entitled to be reinspected at the same station
6 at any time within 30 days of the failed inspection without
7 paying another inspection fee."

8 Section 2. This act is effective when it becomes law.
9

Explanation of Proposal

This proposal makes it clear that the statutory fee for a vehicle emissions inspection must be charged for each inspection. This is the current interpretation and intent. A fee that is lower or higher than the set amount is not allowed.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

LEGISLATIVE PROPOSAL 8

97-RW-232

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: No Fee For Mail-In Registration.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED

2 AN ACT TO ELIMINATE THE ONE DOLLAR FEE FOR MAIL-IN VEHICLE
3 REGISTRATION.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 20-85.1 reads as rewritten:

6 § 20-85.1. Registration by mail; one-day title service; fees.

7 "(a) The owner of a vehicle registered in North Carolina may
8 renew that vehicle registration by mail. ~~A postage and handling~~
9 ~~fee of one dollar (\$1.00) per vehicle to be registered shall be~~
10 ~~charged for this service.~~

11 (b) The Commissioner and the employees of the Division
12 designated by the Commissioner may prepare and deliver upon
13 request a certificate of title, charging a fee of fifty dollars
14 (\$50.00) for one-day title service, in lieu of the title fee
15 required by G.S. 20-85(a). The fee for one-day title service
16 must be paid by cash or by certified check. The fee collected
17 under this subsection shall be credited to the Highway Trust
18 Fund.

1 ~~(c) The fee collected under subsection (a) shall be credited to~~
2 ~~the Highway Fund. The fee collected under subsection (b) shall~~
3 ~~be credited to the Highway Trust Fund."~~

4 Section 2. This act becomes effective December 1, 1997.

Explanation of Legislative Proposal 8

No fee for mail-in registration

This draft would eliminate the \$1 additional fee currently charged by the Division of Motor Vehicles to persons who renew their vehicle registration by mail.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

LEGISLATIVE PROPOSAL 9

97-RW-233

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

Short Title: 60 Days To Change DMV Info.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A STANDARD TIME PERIOD OF 60 DAYS IN WHICH TO OBTAIN OR CHANGE A DRIVERS LICENSE, A SPECIAL IDENTIFICATION CARD, OR A VEHICLE REGISTRATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-4.6 is repealed.

Section 2. G.S. 20-7(a) reads as rewritten:

"(a) License Required. -- To drive a motor vehicle on a highway, a person must be licensed by the Division under this Article or Article 2C of this Chapter to drive the vehicle and must carry the license while driving the vehicle. The Division issues regular drivers licenses under this Article and issues commercial drivers licenses under Article 2C.

A license authorizes the holder of the license to drive any vehicle included in the class of the license and any vehicle included in a lesser class of license, except a vehicle for which an endorsement is required. To drive a vehicle for which an endorsement is required, a person must obtain both a license and an endorsement for the vehicle. A regular drivers license is

1 considered a lesser class of license than its commercial
2 counterpart.

3 The classes of regular drivers licenses and the motor vehicles
4 that can be driven with each class of license are:

5 (1) Class A. -- A Class A license authorizes the holder
6 to drive any of the following:

7 a. A Class A motor vehicle that is exempt under
8 G.S. 20-37.16 from the commercial drivers
9 license requirements.

10 b. A Class A motor vehicle that has a combined
11 GVWR of less than 26,001 pounds and includes
12 as part of the combination a towed unit that
13 has a GVWR of at least 10,001 pounds.

14 (2) Class B. -- A Class B license authorizes the holder
15 to drive any Class B motor vehicle that is exempt
16 under G.S. 20-37.16 from the commercial drivers
17 license requirements.

18 (3) Class C. -- A Class C license authorizes the holder
19 to drive any of the following:

20 a. A Class C motor vehicle that is not a
21 commercial motor vehicle.

22 b. When operated by a volunteer member of a fire
23 department, a rescue squad, or an emergency
24 medical service (EMS) in the performance of
25 duty, a Class A or Class B fire-fighting,
26 rescue, or EMS motor vehicle or a combination
27 of these vehicles.

28 The Commissioner may assign a unique motor vehicle to a class
29 that is different from the class in which it would otherwise
30 belong.

31 A new resident of North Carolina who has a drivers license
32 issued by another jurisdiction must obtain a license from the
33 Division within ~~30~~ 60 days after becoming a resident."

34 Section 3. G.S. 20-7(f) reads as rewritten:

35 " (f) Expiration and Temporary License. -- The first drivers
36 license the Division issues to a person expires on the person's
37 fourth or subsequent birthday that occurs after the license is
38 issued and on which the individual's age is evenly divisible by
39 five, unless this subsection sets a different expiration date.
40 The first drivers license the Division issues to a person who is

1 at least 17 years old but is less than 18 years old expires on
2 the person's twentieth birthday. The first drivers license the
3 Division issues to a person who is at least 62 years old expires
4 on the person's birthday in the fifth year after the license is
5 issued, whether or not the person's age on that birthday is
6 evenly divisible by five.

7 A drivers license that was issued by the Division and is
8 renewed by the Division expires five years after the expiration
9 date of the license that is renewed. A person may apply to the
10 Division to renew a license during the 60-day period before the
11 license expires. The Division may not accept an application for
12 renewal made before the 60-day period begins.

13 ~~Any person serving in the armed forces of the United States on~~
14 ~~active duty and holding a valid drivers license properly issued~~
15 ~~under this section and stationed outside the State of North~~
16 ~~Carolina may renew the license by making application to the~~
17 ~~Division by mail. Any other person, except a nonresident, who~~
18 ~~holds a valid drivers license issued under this section and who~~
19 ~~is temporarily residing outside North Carolina, may also renew by~~
20 ~~making application to the Division by mail. For purposes of this~~
21 ~~section "temporarily" shall mean not less than 30 days continuous~~
22 ~~absence from North Carolina. In either case, the~~

23 The Division may renew by mail a drivers license issued by the
24 Division to a person who meets any of the following descriptions:

25 (1) Is serving on active duty in the armed forces of
26 the United States and is stationed outside this
27 State.

28 (2) Is a resident of this State and has been residing
29 outside the State for at least 30 continuous days.

30 When renewing a license by mail, the Division may waive the
31 examination and color photograph that would otherwise be required
32 for the renewal of a drivers license, for the renewal and may
33 impose in lieu thereof any conditions it considers appropriate to
34 each particular application, finds advisable. A license renewed
35 by mail is a temporary license that expires 30 60 days after the
36 person to whom it is issued returns to this State."

37 Section 4. G.S. 20-7.1 reads as rewritten:

38 "§ 20-7.1. Notification Notice of change of address, address or
39 name.

1 Whenever the holder of a license issued under the provision of
2 G.S. 20-7 has a change in the address as shown on such license,
3 he or she shall apply for a duplicate license within 60 days
4 after such address has been changed. Provided, that if the
5 licensee's mailing address has been changed by governmental
6 action and there has been no actual change of residence location,
7 upon giving notice in writing to the Division of Motor Vehicles
8 in Raleigh within 60 days of this change of address, the licensee
9 may use his current license or permit until its expiration or
10 obtain a duplicate license or permit showing the new address upon
11 payment of the required fee. No person shall be charged with
12 having violated this section when only his mailing address has
13 been changed by governmental action.

14 (a) Address. -- A person whose address changes from the address
15 stated on a drivers license must notify the Division of the
16 change within 60 days after the change occurs. If the person's
17 address changed because the person moved, the person must obtain
18 a duplicate license within that time limit stating the new
19 address. A person who does not move but whose address changes
20 due to governmental action may not be charged with violating this
21 subsection.

22 (b) Name. -- A person whose name changes from the name stated
23 on a drivers license must notify the Division of the change
24 within 60 days after the change occurs and obtain a duplicate
25 drivers license stating the new name,

26 (c) Fee. -- G.S. 20-14 sets the fee for a duplicate license."

27 Section 5. G.S. 20-37.12(e) reads as rewritten:

28 "(e) In accordance with G.S. 20-7, G.S. 20-7 sets the time
29 period in which a new resident of North Carolina has 30 days to
30 must obtain a license from the Division. The Commissioner may
31 establish by rule the conditions under which the test
32 requirements for a commercial drivers license may be waived for a
33 new resident who is licensed in another state."

34 Section 6. G.S. 20-37.9 reads as rewritten:

35 "\$ 20-37.9. Notification Notice of change of ~~address~~, address or
36 name.

37 Whenever the holder of a special identification card issued
38 under G.S. 20-37.7 has a change in the address as shown on the
39 special identification card, he or she shall apply for reissuance
40 of a special identification card within 60 days after the address

1 has been changed. The fee for reissuance of a special
2 identification card is the same as the fee set in G.S. 20-37.7
3 for issuing a special identification card. If a change of
4 address is the result of governmental action and there is no
5 actual change of geographical location, the holder of the card is
6 not required to change the address on the card until the Division
7 issues the holder another card.

8 (a) Address. -- A person whose address changes from the address
9 stated on a special identification card must notify the Division
10 of the change within 60 days after the change occurs. If the
11 person's address changed because the person moved, the person
12 must obtain a new special identification card within that time
13 limit stating the new address. A person who does not move but
14 whose address changes due to governmental action may not be
15 charged with violating this subsection.

16 (b) Name. -- A person whose name changes from the name stated
17 on a special identification card must notify the Division of the
18 change within 60 days after the change occurs and obtain a new
19 special identification card stating the new name.

20 (c) Fee. -- G.S. 20-37.7 sets the fee for a special
21 identification card."

22 Section 7. G.S. 20-67 reads as rewritten:

23 "\$ 20-67. Notice of change of address or name.

24 (a) Address. -- ~~Whenever any person, after making application~~
25 ~~for or obtaining the registration of a vehicle or a certificate~~
26 ~~of title, shall move from the~~ A person whose address ~~named in the~~
27 ~~application or shown upon a registration card or certificate of~~
28 ~~title, such person shall within 30 days thereafter notify the~~
29 ~~Division in writing of his old and new addresses.~~ changes from
30 the address stated on a certificate of title or registration card
31 must notify the Division of the change within 60 days after the
32 change occurs. The person may obtain a duplicate certificate of
33 title or registration card stating the new address but is not
34 required to do so. A person who does not move but whose address
35 changes due to governmental action may not be charged with
36 violating this subsection.

37 (b) Name. -- ~~Whenever the name of any person who has made~~
38 ~~application for or obtained the registration of a vehicle or a~~
39 ~~certificate of title is thereafter changed by marriage or~~
40 ~~otherwise, such person shall thereafter forward or cause to be~~

1 ~~forwarded to the Division the certificate of title and to make~~
2 ~~application for correction of the certificate on forms provided~~
3 ~~by the Division. A person whose name changes from the name stated~~
4 ~~on a certificate of title or registration card must notify the~~
5 ~~Division of the change within 60 days after the change occurs.~~
6 ~~The person may obtain a duplicate certificate of title or~~
7 ~~registration card but is not required to do so.~~
8 (c) Fee. -- G.S. 20-85 sets the fee for a duplicate certificate
9 of title or registration card."

10 Section 8. This act becomes effective December 1, 1997.

Explanation of Legislative Proposal 9

60 Days To Change DMV Information

This proposal establishes 60 days as the standard time period in which a new resident of this State must obtain a drivers license, a special identification card, or a vehicle registration and in which a current resident of this State must notify the Division of a change of address or name. It also makes standard a requirement that a person whose name changes notify the Division of the change within 60 days. Further, it establishes a standard requirement that a person who has not moved but whose address has changed must notify the Division of the change. Finally, it makes clarifying changes to the affected statutes.

Under current law, some of these time periods are 30 days, some are 60 days, and some are unlimited and no notice is required in some instances for a change of name. The current law is as follows:

<u>Circumstance</u>	<u>Days Allowed</u>	<u>Statute</u>
New resident to obtain license	30	20-4.6
New resident to obtain license	30	20-7(a), 20- 37.12(e)
Renewal of temporary license upon return to State	30	20-7(f)
Notice of change of address for license	60	20-7.1, 20- 37.15(b)
Notice of change of name for license	60, but required only for CDL	20- 37.15(b)
Notice of change of address for special id card	60	20-37.9
Notice of change of name for special id card	Not required	
Notice of change of address for vehicle registration	30	20-67(a)
Notice of change of name for vehicle registration	Unlimited	20-67(b)

Section 1 repeals G.S. 20-4.6 because it is unnecessary and confusing. The section addresses privileges of vehicles registered in another state and requires new residents to register their vehicles with the Division within 30 days after becoming a resident. The part that addresses privileges of

vehicles registered in another state conflicts with G.S. 20-4.8, which is the controlling law, and the part that sets a time limit for a new resident to register a vehicle both conflicts with the proposed 60-day limit and unnecessarily repeats G.S. 20-67.

Section 2 changes the time in which a new resident must obtain a drivers license from 30 days to 60 days.

Section 3 extends from 30 days to 60 days the time in which a person who has a temporary drivers license must obtain a regular license. The Division can issue a temporary drivers license by mail as the renewal of a license previously issued by the Division when the license holder is out of the State. A temporary license now expires 30 days after the license holder returns to the State.

Section 4 rewrites the statute requiring a duplicate license for a change of address to add a requirement to notify the Division of a change of name. Notification of a change of name is now required for a commercial drivers license but not a regular license. Lack of correct names is part of the reason the Division cannot currently match many license revocation orders to licensed drivers. G.S. 20-37.15(b), in the commercial drivers license provisions, states that when a person's name changes, the person must apply for a duplicate license as provided in G.S. 20-7.1. Currently, however, G.S. 20-7.1 does not address obtaining a duplicate when a name changes. The rewritten section adds a cross-reference to the fee for a duplicate license but does not impose a new fee. Failure to obtain a duplicate license as required is a Class 2 misdemeanor under G.S. 20-35.

Section 5 makes a conforming change to the CDL statutes. The relevant statute now unnecessarily repeats the time period in which a new resident must obtain a drivers license. This section deletes the current 30-day limit and substitutes a cross reference to the new 60-day limit.

Section 6 conforms the special id statute to the drivers license statute with respect to notice of a change of address or name. The special id statute currently does not require notification of a change of name. Also, the statute is not clear whether a person whose address has changed but who has not moved must notify the Division. As interpreted, the statute means that a person in this circumstance must notify the Division but is not required to get a new special id card.

Section 7 rewrites the statute requiring a person to notify DMV of a change of name or address for purposes of vehicle registration. The statute clarifies that a person who has not

moved but whose address has changed must notify the Division of the change. This is the practice although the statute addresses only a move. In making this change, the statute is conformed to the drivers license change of address provisions. The rewritten section also adds a cross reference to the fee for a duplicate certificate of title or duplicate fee. It does not change the fee, however. Failure to notify the Division of a change or address or name as required is a Class 2 misdemeanor under G.S. 20-176.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S or H

D

LEGISLATIVE PROPOSAL 10

97-DRW-001.01

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Motor vehicle salvage changes.

(Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE BY HALF THE NUMBER OF SALVAGE INSPECTIONS
PERFORMED BY DMV ENFORCEMENT AND TO ELIMINATE ISSUANCE OF
UNBRANDED TITLES FOR VEHICLES BRANDED IN OTHER STATES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-17.3 reads as rewritten:

"§ 20-71.3. Titles and registration cards to be branded.

Motor Vehicle certificates of title and registration cards
issued pursuant to G.S. 20-57 shall be branded. As used herein
"branded" means that the title and registration card shall
contain a designation that discloses if the vehicle is classified
as (a) Flood Vehicle, (b) Non-U.S.A. Vehicle, (c) Reconstructed
Vehicle, (d) Salvage Motor Vehicle, or (e) Salvage Rebuilt
Vehicle or other classification authorized by law. Any motor
vehicle damaged by collision or other occurrence up to six model
years old which is to be retitled in this State shall be subject
to preliminary and final inspections by the Enforcement Section
of the Division, and the Division shall refuse to issue a title
to a vehicle up to six model years old which has not undergone a
preliminary inspection. These inspections serve as an anti-theft

1 measure and in no way should be construed to certify the safety
2 or roadworthiness of a vehicle. Any motor vehicle which has been
3 branded in another state shall be branded with the nearest
4 applicable brand specified in this section, except that no junk
5 vehicle or vehicle that has been branded junk in another state
6 shall be titled or registered. ~~A motor vehicle titled in another~~
7 ~~state and damaged by collision or other occurrence may be~~
8 ~~repaired and an unbranded title issued in North Carolina only if~~
9 ~~the cost of repairs, including parts and labor, does not exceed~~
10 ~~seventy five percent (75%) of its fair market retail value.~~ The
11 Commissioner shall prepare necessary forms and may adopt
12 regulations required to carry out the provisions of this Part 3A.
13 The title shall reflect the branding until surrendered to or
14 cancelled by the Commissioner."

15 Sec. 2. G.S. 20-71.4 reads as rewritten:

16 "§ 20-71.4. Failure to disclose damage to a vehicle shall be a
17 misdemeanor.

18 (a) It shall be unlawful and constitute a Class 2 misdemeanor
19 for any transferor who knows or reasonably should know that a
20 motor vehicle has been involved in a collision or other
21 occurrence to the extent that the cost of repairing that vehicle
22 exceeds twenty-five percent (25%) of its fair market retail
23 value, or that the motor vehicle is, or was, a flood vehicle, a
24 reconstructed vehicle, or a salvage motor vehicle, to fail to
25 disclose that fact in writing to the transferee prior to transfer
26 of any vehicle up to five six model years old. Failure to
27 disclose any of the above information will also result in civil
28 liability under G.S. 20-348. The Commissioner may prepare forms
29 to carry out the provisions of this section.

30 (b) It shall be unlawful for any person to remove the title or
31 supporting documents to any motor vehicle from the State of North
32 Carolina with the intent to conceal damage (or damage which has
33 been repaired) occurring as a result of a collision or other
34 occurrence. Violation of this statute shall constitute a Class 2
35 misdemeanor."

36 Sec. 3. This act becomes effective July 1, 1997.

Explanation of Legislative Proposal 10

Motor Vehicle Salvage Changes

Since 1989, the Enforcement Section of DMV has been required by G.S. 20-71.3 to do preliminary and final inspection of all vehicles that have been damaged in collisions, and are to be retitled. This generally means cars that have been "totaled" and are being repaired for resale.

DMV Enforcement carries out approximately 50,000 salvage inspections each year.

The MGT audit of DMV, completed in April, 1996 found these inspections "costly and ineffective" and recommended that the number of inspections be reduced.

This proposal reduces by half the number of salvage inspections performed by DMV Enforcement, and also eliminates issuance of unbranded titles for vehicles branded in other states.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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LEGISLATIVE PROPOSAL 11

97-DRW-013

THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION

Short Title: Reduce DMV Enforcement Positions. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE NUMBER OF POSITIONS IN THE DIVISION OF MOTOR
VEHICLES ENFORCEMENT SECTION.

The General Assembly of North Carolina enacts:

Section 1. Fifty positions in the Enforcement Section
of the Division of Motor Vehicles of the Department of
Transportation are eliminated effective July 1, 1998.

Sec. 2. This act becomes effective July 1, 1997.

Explanation of Legislative Proposal 11

Reduce DMV Enforcement Staff

This proposal eliminates 17 positions in DMV Enforcement, which corresponds to the number of personnel currently performing the salvage inspections that would be eliminated by Legislative Proposal 10.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

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D

LEGISLATIVE PROPOSAL 12A
SENATE JOINT RESOLUTION 97-RW-230
THIS IS A DRAFT 23-JAN-97 16:19:55

Sponsors:

Referred to:

1 A JOINT RESOLUTION URGING CONGRESS TO REPEAL THE DRIVER'S PRIVACY
2 PROTECTION ACT OF 1994.

3 WHEREAS, North Carolina has an open public records
4 policy; and

5 WHEREAS, the Driver's Privacy Protection Act; of 1994
6 (18 U.S.C. §§2721 et sec.) will substantially restrict access to
7 North Carolina's public records; and

8 WHEREAS, the act is an unnecessary and unconstitutional
9 intrusion on the right of the State to control its own public
10 records; and

11 WHEREAS, the implementation of the act will increase
12 costs in the Division of Motor Vehicles by requiring additional
13 staff time, and by consuming limited staff time, constituting an
14 "unfunded mandate"; Now, therefore,

15 Be it resolved by the Senate, the House of Representatives
16 concurring:

17 Section 1. The General Assembly urges Congress to
18 repeal the Driver's Privacy Protection Act of 1994
19 (18 U.S.C. §§2721 et seq.).

20 Section 2. This resolution is effective upon
21 ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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D

LEGISLATIVE PROPOSAL 12B
HOUSE JOINT RESOLUTION 97-RW-230
THIS IS A DRAFT 23-JAN-97 16:19:55

Sponsors:

Referred to:

1 A JOINT RESOLUTION URGING CONGRESS TO REPEAL THE DRIVER'S PRIVACY
2 PROTECTION ACT OF 1994.

3 WHEREAS, North Carolina has an open public records
4 policy; and

5 WHEREAS, the Driver's Privacy Protection Act; of 1994
6 (18 U.S.C. §§2721 et sec.) will substantially restrict access to
7 North Carolina's public records; and

8 WHEREAS, the act is an unnecessary and unconstitutional
9 intrusion on the right of the State to control its own public
10 records; and

11 WHEREAS, the implementation of the act will increase
12 costs in the Division of Motor Vehicles by requiring additional
13 staff time, and by consuming limited staff time, constituting an
14 "unfunded mandate"; Now, therefore,

15 Be it resolved by the Senate, the House of Representatives
16 concurring:

17 Section 1. The General Assembly urges Congress to
18 repeal the Driver's Privacy Protection Act of 1994
19 (18(U.S.C. §§2721 et seq.).

20 Section 2. This resolution is effective upon
21 ratification.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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LEGISLATIVE PROPOSAL 12C

97-RW-231

THIS IS A DRAFT 23-JAN-97 16:19:55

Short Title: Indemnify State Employees/Privacy Act. (Public)

Sponsors:

Referred to:

A BILL TO BE ENTITLED

AN ACT TO INDEMNIFY STATE EMPLOYEES FOR ANY LEGAL COSTS
ASSOCIATED WITH NONCOMPLIANCE WITH THE FEDERAL DRIVER'S PRIVACY
PROTECTION ACT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 20 of the North Carolina General
Statutes is amended by adding a new section to read:

"§ 20-43.1 Indemnation.

The State shall indemnify all employees or officers of the
State for any attorney's fees, damages, or other costs incurred
due to any legal proceeding asserting noncompliance with the
provision of the Driver's Privacy protection Act of 1994 (18
U.S.C. §§2721 et sec.), or any amendments to that act."

Section 2. This act is effective when it becomes law.

Explanation of Legislative Proposal 12

Federal Driver's Privacy Protection Act

The 1994 federal Driver's Privacy Protection Act (18 U.S.C. §§2721 et seq.), effective September 1997, requires the N.C. Division of Motor Vehicles to close access to DMV records in most cases to prevent disclosure of "personal information" such as names, addresses, and phone numbers. Current N.C. law provides that DMV records are open as public records, except for photos, medical information, and Social Security numbers.

This change in federal law was sponsored as an amendment to the 1994 federal crime bill by Senator Barbara Boxer (D-California) in response to a stalking and murder in California where information on the address of the victim was obtained from California's DMV for the perpetrator by a private detective.

This Legislative Proposal reflects the Committee's decision on January 15, 1997 to oppose the federal Act, ask Congress to consider repeal, and indemnify State employees for any violation of the Act while a challenge is pursued.

MANDATED REPORTS

Mandated Reports Presented to the Committee By DOT

<u>Report Topic</u>	<u>Date Presented</u>
Technology Improvements Study Plan	November 14, 1996
Cash Flow Construction Projects	November 14, 1996, January 15, 1997
Vehicle Salvage Law Changes	November 14, 1996
Driver License Office Location Plan	November 14, 1996, January 15, 1997
IRP Software Improvement Plan	December 12, 1996
Automated Systems Technical Support	December 12, 1996
Implementation of DMV Audit Findings	January 15, 1996
Green Roads Initiative Implementation	January 15, 1996
Visitor Center Funding	January 15, 1996

Mandated Committee Study

The Committee fulfilled the requirement of Section 19.14 of Chapter 18 of the 1996 Session Laws that it study driver education programs. A report by Committee staff on the subject was received and discussed.

**RESULTS OF
1996
LEGISLATIVE PROPOSALS**

<u>1996 Proposal</u>	<u>Bill Number</u>	<u>Sponsor</u>	<u>Final Status</u>
1. Expedite Towed Vehicle Disposal	HB 1268	Bowie	Ratified
2. Speed Limits	SB 1270	Hoyle	Ratified
3. Utility Pole Extension	SB 1181	Hoyle	Ratified
4. Vehicle May Not Tow Sled	HB 1142	McLaughlin	House Transportation
5. No Fee For Mail-In Registration	HB 1266	Bowie	House Finance
6. County Remove Registration Block	SB 1165	Gulley	Ratified
7. Delete "L" CDL Endorsement	HB 1182	McLaughlin	Ratified
8. 60 Days To Change DMV Info	HB 1183	McLaughlin	Senate Transportation
9. Digitized Imagery License Changes	HB 1141	McLaughlin	Ratified
10. DMV Trucking/Technical Changes	SB 1274	Hoyle	Ratified
11. Privatize All DMV Tag Offices	SB 1250	Horton	Senate Transportation



